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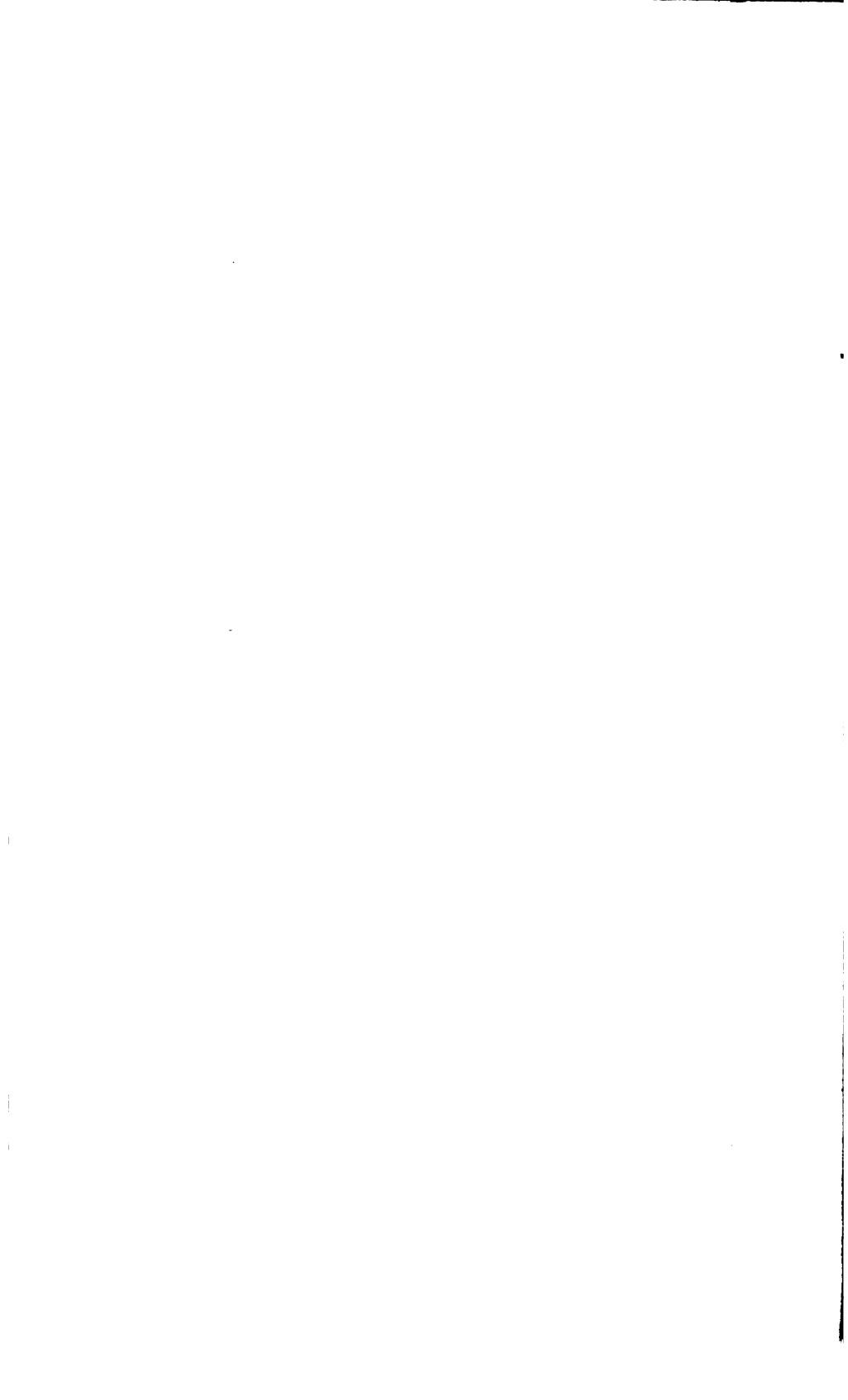


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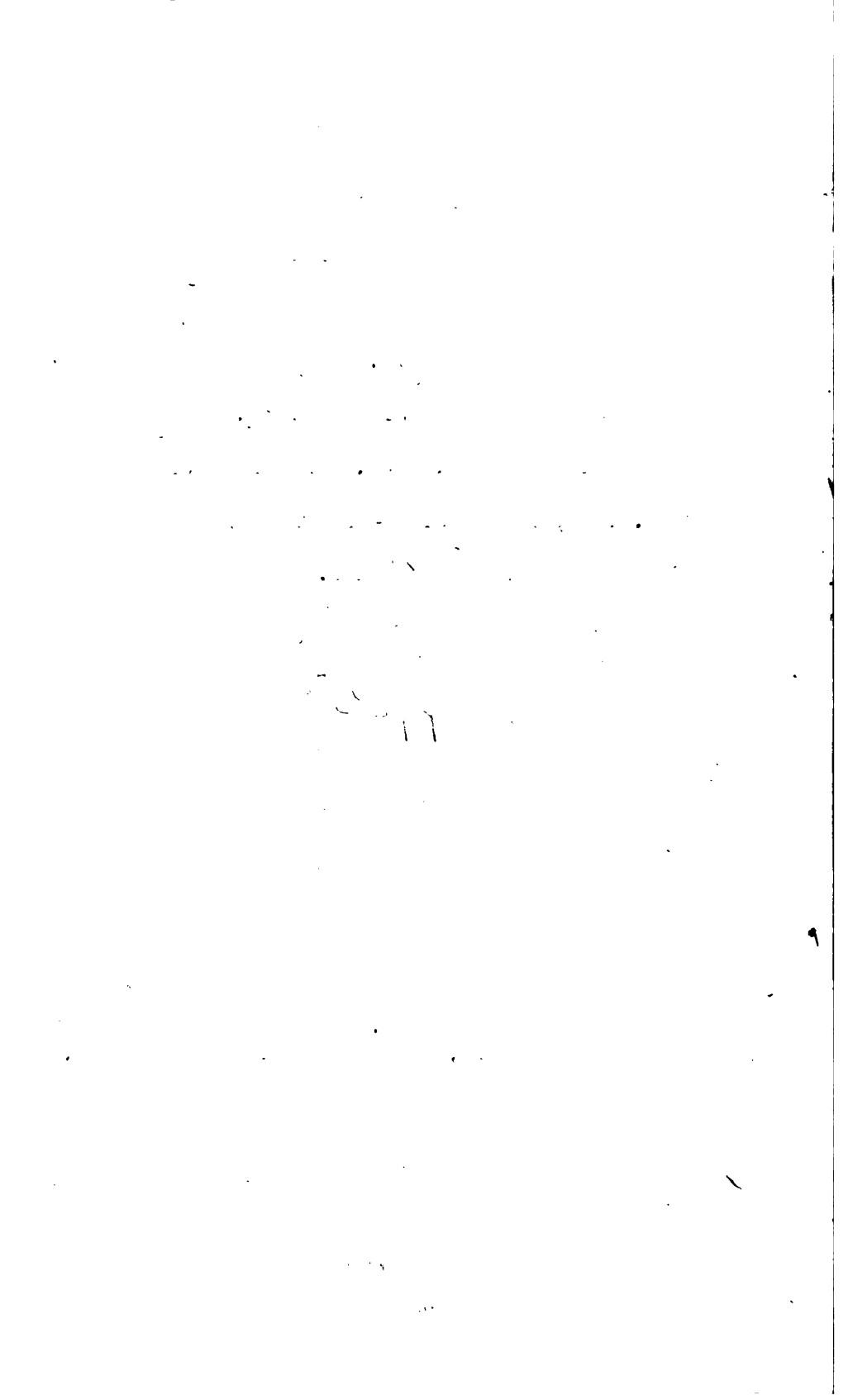




ACTS
OF THE GENERAL ASSEMBLY
OF
VIRGINIA,
PASSED AT THE SESSION OF 1838,
COMMENCING 1ST JANUARY, 1838, AND ENDING 9TH
APRIL, 1838, IN THE SIXTY-SECOND YEAR OF
THE COMMONWEALTH.

RICHMOND:
PRINTED BY THOMAS RITCHIE, PRINTER TO THE COMMONWEALTH,
1838

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ACTS

OR

A PUBLIC AND GENERAL NATURE.

PART I.

CHAP. 1.—An ACT imposing taxes for the support of government.

(Passed April 7, 1838.)

1. *Be it enacted by the general assembly,* That the public taxes Taxes for 1838. for the year eighteen hundred and thirty-eight shall be as follows, to wit: On lands, (except such as are exempted by law from taxation,) for every hundred dollars value thereof, (agreeably to the "act for arranging the counties into districts for the election of senators, and for equalizing the land tax," passed February the eighteenth, in the year eighteen hundred and seventeen, and the "act further to amend and explain the act, entitled, 'an act for arranging the counties into districts for the election of senators, and for equalizing the land tax,'" passed March the first, in the year eighteen hundred and nineteen,) ten cents; for all houses and lots in any city, borough or town, (except such as are exempted by law from taxation,) two and a half dollars for every hundred dollars yearly rent or annual value thereof; for all houses and lots in any city, borough or town, (except such as are exempted by law from taxation,) improved, and not rented or occupied, and for all unimproved lots as aforesaid, ten cents for every hundred dollars value thereof, agreeably to the above cited acts for arranging the counties into districts for the election of senators, and for equalizing the land tax; for slaves. every slave above the age of twelve years, (except such as have been or may be exempted, in consequence of age or infirmity, by the respective county and corporation courts,) thirty cents; for horses. every stallion or jack ass, twice the price at which such stallion or jack ass covers a mare by the season; and when the service of such stallion or jack ass is charged for, not in money, but in provisions or other commodities of value, then twice the alternative value of such property in money, such value to be fixed by the commissioner of the revenue; for all other horses, mares, asses, mules and colts, eight cents each; for every riding or pleasure carriage, stage wagon, jersey wagon or carryall, and harness belonging thereto, one per centum on the value thereof, to be ascertained by the commissioner of the revenue, in the manner prescribed by law: *Provided*, That not less than two dollars shall be paid on each four wheel riding or pleasure carriage and harness, and not less than one dollar on each stage wagon, jersey wagon or carryall, and harness, and not less than fifty cents on each two wheel riding or pleasure carriage and harness.

Houses and lots in towns.

Slaves.

Horses.

Carriages.

Taxes.

Law process.

2. There shall also be levied, collected and paid, in the manner prescribed by law, the following taxes, to wit: For each writ or declaration in ejectment, or other process instituting a suit in a superior court of law, seventy-five cents; for each subpoena in a superior court of chancery, seventy-five cents; for each writ of error, *supersedeas*, and *habeas corpus cum causa*, filing record of appeal or appeals to a superior court of law or chancery, and for each writ of *certiorari* issuing from the general court, or superior court of law or chancery, one dollar and fifty cents; for each appeal from a superior court of law and chancery to the court of appeals, and for each *supersedeas* or writ of error issuing from the court of appeals, two dollars and fifty cents; for each writ or declaration in ejectment, or subpoena instituting a suit in any county or corporation court, fifty cents; for each certificate under the seal of any superior or inferior court of law or chancery, (except such as are exempted by law from taxation,) one dollar; for every transfer of a surveyor's certificate in the register's office, one dollar and fifty cents; for every attestation, protestation, or other instrument of publication by a notary public under his seal of office, one dollar and twenty-five cents; for every certificate under the seal of the commonwealth, two dollars.

Certificates under seals of courts.

Transfers of surveyors' certificates.

Notarial seals.

Seal of commonwealth.

Licenses.

Ordinaries and public houses.

Houses of private entertainment.

Merchants.

Venue masters.

Brokers. Vendors of lottery tickets.

Hawkers and pedlars.

Clock pedlars.

Exhibitors of shows.

3. There shall be levied, collected and paid, on the several licenses hereinafter mentioned, to be granted in the manner prescribed by law, the following taxes, to wit: On every ordinary license or license to keep a house of public entertainment, a tax of not less than eighteen dollars; and if the yearly rent or value of such ordinary or house of public entertainment (to be ascertained by the commissioner of the revenue in the manner prescribed by law) shall exceed two hundred dollars, an additional tax at the rate of seven per centum on such excess of yearly rent or value; on every license to keep a house of private entertainment, a tax of not less than two dollars; and if the yearly rent or annual value of such house of private entertainment (to be ascertained by the commissioner of the revenue in the manner prescribed by law) shall exceed fifty dollars, an additional tax at the rate of five per centum on such excess of yearly rent or annual value; on every license for selling goods, wares, merchandize, and other articles of foreign or domestic growth, production or manufacture, or both or either at the same place, to a wholesale merchant, sixty dollars; and to a retail merchant, twenty dollars; on every license to a venue master, sixty dollars; on every license to a broker, sixty dollars; on every license to sell foreign lottery tickets and lottery tickets in lotteries authorized by the laws of this commonwealth, five hundred dollars; on every license to sell lottery tickets in such lotteries only as are authorized by the laws of this commonwealth, sixty dollars; on every license to a hawker or pedlar to sell or barter goods, wares, merchandize, and other articles of foreign or domestic growth, production or manufacture, (except the article of clocks,) in each county or corporation where he or she shall sell or barter any of the aforesaid articles, twenty-five dollars; on every license to a hawker or pedlar dealing in tin or pewter only, in each county or corporation where he or she shall trade, ten dollars; on every license to a hawker or pedlar dealing either wholly or partly in clocks, in every county or corporation where he or she shall trade, one hundred dollars; on every license to an exhibitor of a public show, thirty dollars in each county or corporation where the same shall be exhibited.

4. *Be it further enacted,* That all clocks which shall be offered for sale by a hawker or pedlar, shall be deemed to have been manufactured without the limits of this commonwealth, and be liable to taxation, unless the commissioner of the revenue or other revenue officer, within whose district such clocks shall be so offered for sale, shall be fully satisfied that the same were *bona fide* of the manufacture of this state.

5. This act shall commence and be in force from and after the *Commencement*, passing thereof.

CHAP. 2.—An ACT appropriating the public revenue.

(Passed March 27, 1838.)

1. *Be it enacted by the general assembly,* That the taxes and ar- ^{General fund.} rents of taxes due prior to the first day of October last, and not otherwise appropriated, and all other branches of revenue, and all public moneys not otherwise appropriated by law, which shall come into the public treasury prior to the first day of October next, and the surplus of all appropriations heretofore made, shall constitute a general fund, and be appropriated as follows, to wit: To the ex- ^{Specific appropria-} tions.

salaries and allowances of the officers of civil government, seventy-five thousand dollars; to the commissioners of the revenue, and clerks for examining commissioners' books, thirty-three thousand dollars; to defray criminal charges, including the expense of guarding jails, thirty-five thousand dollars; to pay the interest on three hundred and nineteen thousand dollars of the seven per cent. debt, and on two certificates of six per cent. debt, held by the literary fund, twenty-three thousand seven hundred and seventy-six dollars thirty-five cents; to pay one year's interest on two hundred and fifty thousand dollars of five per cent. stock, created by the act passed on the twentieth of February, eighteen hundred and thirty-three, twelve thousand five hundred dollars: to contingent expenses of courts, including allowances to clerks, attorneys, sheriffs and jailors, twenty-seven thousand dollars; to the payment of pensions allowed by law, two thousand dollars; as a civil contingent fund, ten thousand dollars; to militia establishment, including services of clerks of courts of enquiry, adjutants, sergeant majors, provosts martial and expresses, and for the purchase of colours, horns, drums, fifes, and the pay of musicians, where the fines of the regiment are insufficient, and also including the pay of adjutant general, sixteen thousand five hundred dollars; to the internal charges of the penitentiary house, five thousand five hundred dollars; to the penitentiary officers' salaries, eight thousand and two hundred dollars; to the transportation of convicts to the penitentiary, six thousand five hundred dollars; to the public guard in the city of Richmond, nineteen thousand dollars; for slaves executed and transported, ten thousand dollars; to expense of representation to congress and state senate, two hundred dollars; to public warehouses, including pay of superintendents and repairs, one thousand dollars; to civil prosecutions, including clerks', sheriffs' and marshals' fees, two hundred and fifty dollars; to the expenses of the guard at Lexington arsenal, five thousand five hundred dollars; for the collection and transportation of arms, three hundred dollars; as a military contingent fund, including claims for services during the last war, five hundred dollars; for the support of the Western lunatic

Appropriations.

hospital, a sum equal to the balance remaining after deducting the value of the clothing furnished the said hospital at the penitentiary during the year ending the thirtieth of September last, from the sum of twelve thousand dollars; for the support of the lunatic hospital at Williamsburg, a sum equal to the balance remaining after deducting the value of the clothing furnished the said hospital at the penitentiary during the year ending the thirtieth of September last, from the sum of sixteen thousand dollars; to the manufactory of arms, for rent of water from the James river company, one thousand two hundred and eighty dollars; for the transportation and maintenance of lunatics confined in the county jails, six thousand dollars; for reports of decisions in the court of appeals and general court, four thousand five hundred dollars; for the payment of artificers at the armory, three thousand dollars; to the vaccine agent, five hundred dollars; for the construction of public roads, four thousand dollars; appropriation remaining unexpended on the first of October last, for a geological survey of the state, six thousand four hundred and two dollars; to the temporary clerk employed by the select committee on banks, two hundred and seventy dollars; for balance of salary due to judge John B. Clopton, pursuant to a judgment of Henrico and city of Richmond, affirmed by court of appeals, twenty-seven dollars and ninety-five cents; and for the furniture of the governor's house, five hundred dollars; and for the new furniture, repairs and alterations of the senate chamber, two hundred and forty-two dollars and ninety-five cents.

Provision for defraying expenses of fiscal year.

Proviso.

Interest on state loans, when to be paid out of treasury.

2. *Be it further enacted,* That so much of the public revenue, and all other moneys not otherwise appropriated by law, as may be received into the public treasury, after the thirtieth day of September next, and the surplus of all other appropriations heretofore made, shall constitute a general fund, to defray such expenses authorized by law, as are not herein particularly provided for, and to defray the current and other expenses of the commonwealth, in the fiscal year which will commence on the first day of October next, and terminate on the thirtieth day of September, one thousand eight hundred and thirty-nine; and the auditor of public accounts is hereby authorized and required to issue his warrants in the same manner as if the sums had been specifically mentioned, subject to such exceptions, limitations and conditions, as the general assembly may prescribe by law: *Provided*, That nothing in this act contained shall be so construed as to authorize the auditor of public accounts to issue a warrant or warrants in satisfaction of any judgment of any court of law or equity against the commonwealth, without a special appropriation by law.

3. *Be it further enacted,* That if the revenue of the fund for internal improvement shall at any time be insufficient to meet the payment of the interest charged on the said fund as it shall become due upon loans obtained for the purposes of internal improvement, under existing or future acts of the general assembly, such interest shall be paid out of any money in the treasury not otherwise appropriated; and the auditor of public accounts is hereby authorized and required, upon the receipt of the order or orders of the board of public works, certifying the fact of such insufficiency in the funds of the said board, to issue his warrant or warrants in their favour for the necessary sum or sums, which shall be deposited in the treasury to the credit of the fund for internal improvement, to

be applied by the said board, on the warrants of the second auditor towards the payment of such interest.

4. This act shall commence and be in force from and after the Commencement passing thereof.

CHAP. 3.—An ACT making certain changes in the time prescribed for the duties of commissioners of the revenue, and for other purposes.

(Passed April 4, 1838.)

1. *Be it enacted by the general assembly,* That when the commissioners of the revenue in the several counties, cities, towns and boroughs of this commonwealth shall have completed their several land books in each year, they shall, on or before the first day of July, deliver one fair copy thereof to the clerk of the county, city, town or borough, to be by him preserved amongst his records, free for the inspection of every person in any manner interested therein, and shall, on or before the first day of October, deliver another fair copy thereof to the auditor of public accounts, as his guide in correcting the equalizer's book, and in settling with the sheriff, and on or before the thirtieth day of June, shall deliver another fair copy thereof to the sheriff of the county, which shall be his guide in collecting the land tax of the current year.

2. *And be it further enacted,* That the commissioners of the revenue in the several counties, cities, towns and boroughs of this commonwealth, shall severally, on the first day of March in each year, begin and proceed without delay through their respective districts, to make their lists of property subject to taxation, and shall call upon every person subject to taxation, or having property in his or her possession or care, on which any tax is imposed, for a written list thereof, which list being corrected if necessary, and distinctly read over by the commissioner to the person delivering the same, he or she shall then make oath or affirmation, that such list contains a just and true account of all persons, and of every species of property in his or her possession or care, within the district (land only excepted), subject to taxation on the last day of February then next preceding; and that no contract, change or removal whatever of property had been made or entered into, or any other method devised, practised or used, in order to evade the payment of taxes; which oath or affirmation the commissioner of the revenue is hereby empowered and directed to administer. And the said list of taxable property and land shall have relation to the last day of the same month of February.

3. *And be it further enacted,* That the four several alphabetical general lists of property required to be made by the commissioner of the revenue, in pursuance of the forty-fifth section of the act, entitled, "an act reducing into one the several acts prescribing the mode of ascertaining the taxable property within this commonwealth, and of collecting the public revenue," passed March the sixth, eighteen hundred and nineteen, for the purposes therein mentioned, shall be delivered as therein required, on or before the last day of June annually, instead of the last day of May.

4. *And be it further enacted,* That the commissioners of the revenue shall, before the first day of December in every year, return to the court of their respective county or corporations, a correct account of their services, instead of on or before the first day of August, as heretofore required; and the said courts are hereby re-

Note
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Land books, when
to be delivered to
clerks.

Subject to free
inspection.

Copy to be sent to
auditor.

Copy for sheriff.

Lists of taxable
property, when
and how to be
taken.

Oath of persons
taxed.

To be adminis-
tered by commis-
sioner.

Alphabetical ge-
neral lists, when
to be delivered.

2 Rev. Code 1819,
P. 28.

Commissioners to
return to courts
accounts of ser-
vices.

Note
book
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Preliminary Report to be given in the County of
Hampshire on the 1st day of March 1838
in the month later than under
or on the 1st day of March 1838

Note to the
Revenue

Courts to ascertain and certify time employed.

Taxes, where collectable.

When distrainable.

When payable into treasury.

Time allowed sheriffs in distant counties.

Delinquent land lists, when to be returned to courts.

Penalties on commissioners for breach of duty.
2 Rev. Code 1819, p. 23, § 29.

Repealing clause.

Commencement.

spectively authorized and required to ascertain the time in which the said services might have been reasonably performed, and shall certify the same to the auditor of public accounts in the manner prescribed by the fifty-fourth section of the act aforesaid.

5. *And be it further enacted*, That it shall be the duty of every sheriff and collector within this commonwealth, to proceed to collect all taxes imposed by law on lands, slaves and other property, agreeably to the lists taken and returned by the commissioners of the revenue, commencing on the first day of July, instead of the first day of June, as heretofore; and they may be distrained for on the first day of August next succeeding, instead of the first day of July, as heretofore. And the sheriffs and collectors shall, on or before the first day of December in each year, pay into the public treasury all taxes to be by them collected in such year, instead of the first day of November in each year, as heretofore required; allowing however, to every sheriff or collector whose county courthouse is more than one hundred and fifty miles from the seat of government one day after the said first day of December, for every thirty miles of such excess.

6. *And be it further enacted*, That the list of any land or lots delinquent for the non-payment of taxes, now required by law to be returned to the several county courts of this commonwealth for examination and allowance, and to be certified at the December term thereof, shall hereafter be returned to such courts at or before the April term thereof in the next succeeding year, and not after.

7. *And be it further enacted*, That the penalties on the commissioners of the revenue, as prescribed by the twenty-ninth section of the act aforesaid, shall have reference to the changes in point of time made by this act.

8. *And be it further enacted*, That so much of the act aforesaid, herein before cited, and of any other act as is contrary hereunto, shall be, and the same is hereby repealed.

9. This act shall commence and be in force from and after the first day of August next.

CHAP. 4.—An ACT to authorize the appointment of an additional commissioner of the revenue in the county of Smyth.

(Passed February 12, 1838.)

Smyth county court to appoint an additional commissioner.

Compensation.

Commencement.

1. *Be it enacted by the general assembly*, That hereafter it shall be lawful for the county court of the county of Smyth to appoint an additional commissioner of the revenue in and for said county: *Provided*, The two commissioners hereby authorized for said county shall not be allowed more than fifty days each, within which to perform their several duties at the rate now established by law, as a compensation for their services; and such additional commissioner shall be governed in all respects by the laws in force in relation to commissioners of the revenue of this commonwealth.

2. This act shall commence and be in force from the passing thereof.

CHAP. 5.—An ACT to authorize the appointment of an additional commissioner of the revenue in the county of Ohio.

(Passed January 25, 1838.)

1. *Be it enacted by the general assembly,* That the county of Ohio shall be divided into two revenue districts; and that hereafter it shall be lawful for the county court of said county to appoint two commissioners of the revenue for said county, one for each district. One of said districts shall consist of the city of Wheeling, according to its present and future boundaries as they may hereafter be extended. The other district shall consist of the residue of the body of the said county. The two commissioners for said county shall be governed in all respects by the laws now in force in relation to commissioners of the revenue of this commonwealth, and the allowance as a compensation for their services shall not exceed three hundred dollars, to be divided between them, as the county court of said county may deem proper. For the present year, it shall be the duty of the county court of said county, at the next February term, to appoint an additional commissioner of the revenue for the body of the county, exclusive of the city of Wheeling, without the necessity of summoning the justices for that purpose: and thereafter each of said commissioners shall be appointed by said court, at the time heretofore prescribed by law.

2. This act shall commence and be in force from the passing thereof.

CHAP. 6.—An ACT providing for the re-assessment of lands in this commonwealth.

(Passed March 24, 1838.)

1. *Be it enacted by the general assembly,* That there shall be appointed by the executive a board of principal assessors, consisting of four members, who shall be freeholders, for each of the four following districts, that is to say, one board for the district composed of the counties of Princess Anne, Norfolk, Nansemond, Isle of Wight, Surry, Sussex, Southampton, Greensville, Prince George, Brunswick, Dinwiddie, Chesterfield, Henrico, Hanover, New Kent, Charles City, James City, York, Warwick, Elizabeth City, Gloucester, Matthews, Middlesex, Essex, King & Queen, King William, Caroline, Spottsylvania, Stafford, King George, Westmoreland, Lancaster, Richmond, Northumberland, Accomack and Northampton; one for the district composed of all the other counties east of the Blue Ridge; one for the district composed of the counties between the Blue Ridge and Alleghany; and one for the district composed of all the other counties of the commonwealth, including Montgomery and Monroe, which also lie on both sides of the Alleghany. Each board shall be composed of one person from each of the districts aforesaid, and a majority of each shall be necessary to form a quorum for the transaction of business.

2. It shall also be the duty of the executive to appoint one or more assistant assessors in every county in the commonwealth, not exceeding one for each commissioner's district within the county; and the better to enable the executive to make fit appointments to the office of assistant assessor, each county court, at the April, or May, or June term next, shall recommend to the executive not less than two discreet and reputable freeholders, in their opinion suitable for the office aforesaid; the executive, however, shall not be

confined in their appointments to the persons so recommended by the court.

Duties of assistant assessors.

3. Each assistant assessor so appointed, as soon as the commissioner's land book for the present year is corrected and completed according to law, shall copy therefrom, in one table, all that is contained in relation to the several tracts of land in the columns under the following heads, viz: *Name of Owner; Residence; Number of Acres of Land; Description of the Land; Distance and bearing from the Courthouse; Rate of Land per Acre;* and in another table he shall copy all that is contained in relation to the several town lots in the columns under the following heads, viz: *Name of Owner; Residence; Number of Town Lots; Name of the Town.* To each of these tables the said assistant shall add another column, headed as follows, viz: In the table of tracts of land, the column shall be headed, *Present value of Land per Acre;* and in the table of town lots, it shall be headed, *Present value of Lots.*

How value of land to be assessed.

4. With the table so made out, it shall be the duty of each assistant assessor forthwith to proceed within the limit assigned to him by his appointment, to ascertain the value per acre of each tract of land, and the entire value of each town lot within his precinct, and to set down such value, in the column provided as aforesaid, opposite to the tract of land or lot to which it pertains. Such value shall be assessed as follows: the market price of the land or lot, upon the terms of sale usual in that part of the country in which it may lie, shall be first ascertained, and the price so ascertained shall be reduced to its cash value, by making a just and proper discount therefrom.

Owners of land may be called on for information.

5. The assistant assessors shall have power, and it shall be their duty, in all cases, when it is practicable, to call upon the owner of any land or lot for such information as he may be able to give in relation thereto. If the assistant shall think proper, he may require such information on oath; and if the person of whom it is required shall fail or refuse to give it without lawful cause, he shall forfeit and pay to the commonwealth, for the use of the literary fund, a fine of one hundred dollars. It shall moreover be the duty of each assistant assessor to obtain such other information of the value of the land or lot as he conveniently can; and in all cases in which his information is not otherwise satisfactory, he shall himself view it, if it can be found by him. In assessing the value of any land or lot, all buildings and other improvements thereon shall be taken into the estimate; and it shall be the duty of the assistant assessor to note in a separate column to be added to each table for that purpose, the sum which he has added to the value of the land or lot on account of the buildings thereon.

Improvements on lands to be estimated.

Verification of assessment by assistant assessors.

Form of oath.

6. When the assistant assessor shall have finished his assessment within his precinct, he shall verify the same by an oath or affirmation, to be certified at the foot of each of the tables aforesaid, and to be in substance as followeth: "I, A. B. assistant assessor of the lands and lots in the county of , do solemnly swear, (or affirm,) that I have impartially, and to the best of my judgment and ability, discharged my duty, under the act of the general assembly, entitled, 'an act providing for a re-assessment of lands in this commonwealth,' and that, according to the best information that I have been able to procure, the value assessed upon each tract of land or lot as above, I verily believe to be correct. So help me God." A fair copy of

each table thus verified, shall, without delay, be fixed up at the door of the courthouse of the county, and shall be kept there by the assistant assessor on the first day at least of two successive courts, with a note written thereon, in some conspicuous place, to the following effect: "All persons interested in the assessment are hereby informed, that appeals therefrom will be heard and decided upon by the board of principal assessors, who will sit in this county; that notice of any intended appeal should be given to me in writing; and that any evidence which any one may desire to lay before the board, must be taken in the form of affidavits, and delivered to me to be exhibited to the board. A. B. assistant assessor."

7. Be it further enacted, That so soon as the said assistant assessors shall have finished their assessments respectively, they shall communicate the fact to the executive of this commonwealth, and the executive, thereupon, shall issue a proclamation, requiring the several boards of principal assessors to assemble together at some convenient time, to be designated in the proclamation, at some proper place within their districts respectively, to be also in like manner designated, and to proceed in the execution of their duties. The said boards of principal assessors shall assemble accordingly, at the times and places designated, or so soon thereafter as may be practicable, and having first taken an oath or affirmation, as herein prescribed, shall enter upon the duties of their office. Such oath or affirmation shall be to the following effect: "I, A. B. do solemnly swear, or affirm, that I will faithfully and impartially, to the best of my skill and judgment, discharge the duties of my office of principal assessor, under the act of the general assembly, entitled, 'an act providing for a re-assessment of lands in this commonwealth.' So help me God." The said oath shall be taken before some justice of the peace, and duly certified by him; and the production thereof to the auditor of public accounts, so certified, shall be necessary to entitle such principal assessor to a warrant for the pay allowed him by this act.

8. The board of principal assessors, so assembled and qualified, shall attend successively at the courthouse of every county in the district, and revise and correct, modify or affirm, the assessments made by the assistant assessors, in such manner as shall seem to them right.

9. The board of principal assessors shall be attended in each county by the assistant or assistants of that county. The said assistants shall return to the board their original tables of assessment, verified as hereinbefore required. They shall give the board all the information in their power which shall be required of them, whether on oath or otherwise. They shall report faithfully all appeals of which they have received notice, and lay before the board all affidavits and other evidences entrusted to their care in relation to such appeals, and if required to do so, they shall act as clerks to the board whilst in session in their counties respectively. The board of principal assessors may call upon the commissioner or commissioners of the revenue in the respective counties, if they think fit, to give them such information as the said commissioner or commissioners may possess; and it shall be the duty of any commissioner so called on, to attend and give information accordingly.

10. Be it further enacted, That as soon as the said board of principal assessors shall have finished their duties, in their districts

Notice to be given to persons interested.

Boards of principal assessors, when to be convened.

Qualification by principal assessors.

Form of oath.

Certificate of qualification to be produced to auditor.

Duty of principal assessors.

To be attended by assistants.

Returns and information to be given by assistant to principal assessors.

Duty of commissioners of the revenue.

Report to be made to executive.

Principal assessors to assemble in Richmond.
Board, how constituted.

Their duties.

Errors in assessments to be corrected.

Copies of assessment to be returned to auditor.

How certified.

Form.

Auditor's duty.

Clerks to be employed by executive.

Compensation to principal assessors.

To assistants.

respectively, they shall communicate the fact to the executive; and when the executive shall be informed that all of them have so finished their duties in their districts, they shall issue a proclamation, requiring all the said principal assessors to assemble in the city of Richmond, on a convenient day, to be designated in the proclamation. The said principal assessors shall assemble accordingly, and form a general board for the purpose of revising and correcting what each particular board shall have done. The general board shall be constituted by not less than a majority of the whole number of principal assessors, of whom two at least shall be from each district. The general board so organized, shall compare the various assessments made by each particular board; the members shall communicate freely and fully to each other the principles on which each particular board has acted, and the manner in which the value of the lands and lots has been ascertained in each county; and the said general board shall have full power, and it shall be their duty to correct all errors which they may detect in any of the assessments; and so to reform them all as to make them correspond with each other in the principles on which they shall be made.

11. *Be it further enacted,* That when the assessments aforesaid shall thus have been revised and reformed by the general board of assessors, a fair copy of those made for each county shall be delivered to the auditor of public accounts, certified and signed as followeth, to wit: " *We, the principal assessors of the lands and lots in Virginia, assembled in general meeting in the city of Richmond, do hereby certify, that we have revised the above table of lands or lots, and the above assessment thereof; that we have corrected all the errors which we discovered therein, and that we believe it is now made in conformity with the provisions of the act of the general assembly, entitled, 'an act providing for a re-assessment of lands in this commonwealth.' Given under our hands this day of , in the year .*" Whereupon, it shall be the duty of the auditor of public accounts forthwith to cause a fair copy of the tables of assessment, so returned for each county, to be forwarded to the commissioners of the revenue in the several counties respectively. For the purpose of making the copies to be returned to the auditor as aforesaid, and those to be forwarded by him to the commissioners, the executive may authorize the employment of as many clerks as may be necessary, to be paid such reasonable compensation as they may deem proper.

12. *And be it further enacted,* That the aforesaid principal assessors shall each receive, as a compensation for his services, the sum of four dollars a day for every day that he shall be actually engaged in the discharge of his duties, or in travelling to or from the places at which his duty requires him. His account, stating the number of days for which he is entitled to pay, made out on oath, and certified to be correct by the particular board of which he is a member, shall entitle him to a warrant on the treasury for the amount due thereon, to be paid out of any money therein not otherwise appropriated. The assistant assessors shall receive as a compensation for their services, each the sum of two and a half dollars a day for every day he shall have been actually engaged in his duties, including the time of travelling as aforesaid. His account, stating also the number of days for which he is entitled to pay, shall be verified by his own oath, and being certified to be correct in the

opinion of the board of assessors for the district in which he shall have acted, shall entitle him to a warrant for the amount due him, to be paid in like manner. The commissioners of the revenue shall receive, as a compensation for such services as they shall render to the board at their request, a compensation of two dollars per day, to be certified by the board, and paid in like manner.

To commissioners
of the revenue.

13. Be it further enacted, That after the assessment for the whole state shall have been completed as aforesaid, and copies of the tables of assessment for the several counties shall have been furnished to the respective commissioners, it shall be the duty of those commissioners to correct their land books accordingly; and whenever thereafter any part of a tract of land or lot shall be transferred from one person to another upon the commissioner's books, it shall be the duty of the commissioner to ascertain the relative value of the part so transferred, when compared with the whole tract; to charge the part so transferred at such value; to deduct the value so charged to the transferee from the amount of value of the whole tract or lot, and charge the balance upon the residue of the tract or lot. If any person interested in such apportionment shall be dissatisfied therewith, he may apply to the court of the county or corporation in which the land or lot lies, and upon reasonable notice given to the other party interested therein, or if the other party cannot be found in the county, then upon reasonable notice given to the commissioner, the court shall have full power to correct any error that may have been committed, and shall thereupon order the commissioner's book to be reformed accordingly.

Duties of commis-
sioners after as-
sessment com-
pleted.

*John
Brown*
Errors by commis-
sioners, how rec-
tified.

14. It shall moreover be the duty of the commissioners of the revenue to assess the value of any new buildings which may have been erected on any tract of land or lot, and which shall not have been heretofore assessed, and to add the amount thereof to the value at which such land or lot was before charged: Provided, however, That they shall not assess any such new building which is under the value of one hundred dollars. In making the assessment of new buildings as aforesaid, they shall be valued as nearly as may be, at the same rate at which other buildings in the same neighbourhood shall have been valued by the assessors under this act. Neither the commissioners, however, nor the assessors shall value any building until the same shall have been so far finished as to be fit for use; and they shall then assess it, whether entirely finished or not, at the same value as if it were finished on the plan on which it is designed. Whenever any building assessed as aforesaid shall be destroyed by any cause whatever, it shall be the duty of the commissioner of the revenue, at the next periodical correction of his land book, so to correct the same as to deduct from the value of buildings charged to the owner thereof, as nearly as may be, the value at which the building so destroyed shall have been assessed.

Annual assess-
ments to be made
of new buildings.

Provision in case
of destruction of
buildings.

15. Be it further enacted, That if any principal or assistant assessor shall refuse or fail to perform any of the duties of his office, he shall forfeit and pay to the commonwealth, for the benefit of the literary fund, a fine of not less than one hundred nor more than five hundred dollars; and if any person required by this act to verify any fact upon oath, shall falsely, wilfully and corruptly depose to such fact, he shall be deemed guilty of perjury, and be punished in the same manner as if he had falsely, wilfully and corruptly deposed to any fact as a witness in a court of justice.

Penalties on asses-
sors failing to per-
form their duty.

W. M. M.
Vacancies to be supplied by executive.

When office of assistant assessors forfeited.

Absence of assistants not to prevent principal assessors from executing duty. Commissioners of revenue to attend meetings of board.

Clerk to board.

Return to be made by board of assessors to auditor.

Compensation to assistant assessors for table of assessment.

Commissioners to make alterations in land books for transfers after assessment.

Additional compensation to assistant assessors.

16. *Be it further enacted*, That the executive shall from time to time, as occasion may require, supply all vacancies which may happen in the office of any principal or assistant assessor. And if any of the assistant assessors appointed under the authority of this act, west of the Alleghany mountains, shall fail for the space of six months, or any of those appointed east of the said mountains shall fail for the space of five months from the time their appointments are accepted, to complete their respective assessments, or shall fail to communicate the fact of such completion to the executive, the office of each assistant assessor so in default shall, in addition to the penalty hereinbefore prescribed, be absolutely forfeited; and the executive shall forthwith appoint another assistant assessor to fill such vacancy, unless, in the opinion of the executive, good and sufficient cause be shewn why such forfeiture shall be remitted.

17. And whereas doubts may arise as to the necessity of the attendance of the assistant assessor or assessors on the board of principal assessors in each county, where, from the circumstances of death, inability or other cause, such attendance may be prevented, *Be it therefore enacted*, That the absence of the assistant assessor or assessors shall not prevent in any county the board of principal assessors from proceeding in the execution of its duty, where the table or tables of assessment shall be laid before it. And it shall be the duty of the commissioner or commissioners of the revenue in the several counties to attend the said board at its meetings, and to continue their attendance as long as he or they may be required, for the purpose of giving such information as the said commissioner or commissioners may possess; and in the absence of the assistant assessor or assessors, the said commissioner or commissioners shall, if required so to do, act as clerk to the board whilst in session, and as a compensation for his or their services, receive the same allowance, and in the same manner as the assistant assessor or assessors.

18. *And be it enacted*, That it shall be the duty of the principal assessors, after having revised, corrected, modified or affirmed the original table or tables of assessment which shall be laid before the said board by the assistant assessors for each county, to cause such corrected table or tables to be fairly transcribed by their clerk, and forwarded to the auditor of public accounts by mail, retaining the original in their possession. And the board of principal assessors may, in addition to their compensation, make such an allowance to the assistant assessors for the copy of the table or tables of assessment by them made out, as to it may seem just.

19. *And be it further enacted*, That it shall be the duty of the commissioner or commissioners of the revenue, in correcting their land book, in conformity to the new tables of assessment forwarded to them by the auditor, to make agreeably to the thirteenth section of this act, alterations for all transfers which have been made since the table or tables of assessment have been made out by the assistant assessor or assessors.

20. *And be it further enacted*, That the board of principal assessors for each county shall be, and they are hereby authorized to make to the assistant assessor or assessors, when in their opinion, such assistant assessor or assessors shall have faithfully performed the duties of the office, in addition to the compensation allowed by the twelfth section of this act, an allowance of six per centum upon the amount of their claim or claims which shall have accrued at

the time they communicated the fact to the executive that they had performed the duties required of them by this act.

21. If from any cause the assessment of any county or part of a county, shall not be laid before the board of principal assessors in such county, the same may be sent to the general board after it assembles in Richmond, to be in the same manner revised, corrected, modified or affirmed, as might have been done by the board of principal assessors.

22. All acts of assembly coming within the purview of this act shall be, and the same are hereby repealed.

23. This act shall commence and be in force from and after the passing thereof.

CHAP. 7.—An ACT to authorize the sale of a portion of the lands of James Doyle, Margaret Doyle and Susan Doyle, heirs of Dennis Doyle, deceased, and for other purposes.

(Passed January 31, 1838.)

1. *Be it enacted by the general assembly,* That it shall be lawful for the circuit superior court of law and chancery for Henrico county to appoint some fit person as guardian for James Doyle, Margaret Doyle and Susan Doyle, heirs of Dennis Doyle, deceased, of the state of New York, taking from such guardian bond and security in such penalty as the said court may deem proper, conditioned as other bonds required of guardians, and with a further condition to pay the taxes and damages to the commonwealth, as hereinafter directed; and it shall be lawful for the guardian so appointed to make sale, from time to time, of so much of the lands of said heirs, situate in Virginia, as may be sufficient to pay the taxes and damages now due the commonwealth, upon the lands of the said heirs, and which may become due at any time within three years from the passage of this act, it being the same land of which Richard Smyth died seized, and which was subsequently claimed by David Doyle, deceased, under and by virtue of the act of the general assembly, passed February fifth, eighteen hundred and ten, entitled, "an act releasing to David Doyle the commonwealth's title to the lands whereof Richard Smyth died seized; and the sales so made shall be reported by the said guardian to the said court for its approbation, and if approved by the said court, it shall order and direct the said guardian to execute to the purchasers deeds of conveyance for the lands so sold; which conveyances shall operate to vest in the purchasers all the right and title of the said heirs, of the president and directors of the literary fund, and of the commonwealth, in and to the land so conveyed.

2. *Be it further enacted,* That the said guardian shall apply the proceeds of such sales to the payment of taxes and damages upon the lands of said heirs, and the costs incurred in the discharge of the duties hereby imposed; and he shall render to the said court annually an account of the proceeds of such sales.

3. *Be it further enacted,* That on or before the first day of December, eighteen hundred and thirty-nine, the said guardian, by himself or agent, shall select from the various tracts of land claimed by said heirs, and of which the said Smyth died seized, those tracts or surveys which he desires to redeem from forfeiture by the payment of taxes and damages as aforesaid, and furnish to the auditor of public accounts a list thereof, in which the same shall be plainly identified; and for the redemption of the tracts or surveys so se-

Assessment of
countries not be-
fore board in coun-
try may be revised
by general board.

Circuit court for
Henrico to appoint
guardian for
Doyle's heirs.

Lands to be sold
for payment of
taxes.

Sales to be op-
proved by court.

Right of heirs
and of state vested
in purchasers.

Proceeds of sales
how applied.

Lands of Doyle's
heirs how re-
deemed.

Further time allowed for redemption.

lected, the further time of three years from the passage of this act shall be allowed to said heirs, and the residue of said lands of which said Richard Smyth died seized, and which are now forfeited for non-payment of taxes and damages in arrear, shall be absolutely irredeemable after the first day of December, eighteen hundred and thirty-nine.

When title of commonwealth relinquished

4. *Be it further enacted,* That the title of the commonwealth and of the president and directors of the literary fund shall be transferred to and vested in said heirs as tenants in common, so soon as the same shall be redeemed from forfeiture as aforesaid, except such portions thereof as may be sold under the provisions of this act, and that before such redemption for the purpose of protecting the lands so selected from waste or trespasses, or for recovering possession thereof from those who may be seated thereon without lawful authority or valid title, the said heirs may institute actions at law in their own names, and prosecute the same to final judgment, in the same manner and to the same extent and effect as if the title of the commonwealth and the president and directors of the literary fund were vested in them.

Further time allowed to ascertain taxes, &c. of lands to be redeemed.

Act 1835-6, p. 7.

5. *Be it further enacted,* That as to the lands so selected for redemption, and which may have been forfeited to the commonwealth for failure to enter the same on the books of the commissioners of the revenue, the second section of the act, entitled, "an act concerning delinquent lands and lands not heretofore entered on the commissioners' books," passed March the twenty-third, eighteen hundred and thirty-six, shall be and the same is hereby continued in full force for the term of three years from the passage of this act.

Rights of actual occupants protected.

6. *Be it further enacted,* That the redemption by this act authorized, shall not in any wise affect the claim or title of any *bona fide* occupant claiming under a prior grant, whose rights are protected and secured under the provisions of the several acts which have been heretofore passed, nor shall this act be so construed as in any wise to authorize the said heirs, or those claiming under them, to disturb the possession of any actual and *bona fide* occupant commencing since the last day of March, eighteen hundred and thirty-one, and holding the same mediately or immediately under grants from the commonwealth, issued before the first day of April, eighteen hundred and thirty-one, and upon which all taxes and damages charged or justly chargeable thereon have been fully paid.

Further time allowed all persons to redeem forfeited lands.

7. *Be it further enacted,* That a further period of forty-five days from the passage of this act shall be allowed to all persons whatsoever to redeem all lands which have been forfeited to the commonwealth, or the literary fund, by the operation of any previous act of the general assembly.

Commencement.

8. This act shall be in force from its passage.

CHAP. 8.—An ACT to amend an act, entitled, "an act to amend and explain the laws concerning western land titles, and for other purposes."

(Passed March 15, 1838.)

Further time allowed to redeem forfeited and omitted lands. Redemption, how to be made.

1. *Be it enacted by the general assembly,* That all persons whose lands have been forfeited for the non-payment of taxes charged thereon, or for the failure to enter them on the books of the commissioners of the revenue, shall have a further time, until the first day of July next, to redeem the same, by paying into the treasury of the commonwealth, or to the sheriff of the county where they lie, as

hereinafter provided, the amount of taxes charged, and damages thereon, at the rate of six per centum per annum; and in case of forfeiture by failure to enter as aforesaid, by causing such lands to be entered on the books of the commissioners as aforesaid, and having the same charged with all arrearages of taxes chargeable thereon, and paying such taxes and damages thereon, at the rate of six per centum per annum, into the treasury, or to the sheriff as aforesaid: *Provided*, That such redemption shall in no wise affect *Proviso*. the claim or title of any *bona fide* occupant whose rights are protected and secured by any pre-existing law.

2. *Be it further enacted*, That any person or persons, or body corporate, claiming title to lands which are forfeited as aforesaid, the boundaries whereof embrace lands previously granted to others, or lands which by any preceding act of the general assembly may be vested in the *bona fide* occupant, such claimant, his or her agent, may at any time before the first day of July next, redeem such quantity of land in any particular tract as he may desire, by paying a rateable proportion of the taxes charged or chargeable thereon: *Provided however*, That such payment shall not divest the title of the literary fund or commonwealth to such proportion of the land so redeemed, unless the said claimant, his or her agent, shall cause the same to be partitioned and set apart to him by metes and bounds by the surveyor of the county where the land lies, or some other surveyor, approved by the judge of the circuit superior court of said county, and return a plat and certificate of survey of the same, with the affidavit of the surveyor, stating, that in his opinion, the said metes and bounds, after excluding prior grants, and the lands vested in actual occupants as aforesaid, does not embrace more lands than the proportion so redeemed as aforesaid, to the clerk of the circuit superior court as aforesaid, on or before the first day of September, eighteen hundred and thirty-nine, and copies of such plats and certificates of survey, certified by the clerks of the courts aforesaid, shall be conclusive evidence against the party so redeeming, and against all and every person or body corporate, claiming under him, her or them.

3. *Be it further enacted*, That any person or persons, or body corporate, claiming title to any undivided interest in any land forfeited as aforesaid, shall have the right to redeem his, her or their undivided interest, by paying the amount of taxes and damages thereon, proportioned to such interest: *Provided however*, That the redemptions authorized by this and the next preceding section shall in no wise affect the right or title of actual occupants, as protected and secured by this and pre-existing laws.

4. *Be it further enacted*, That any and every person or persons, or body corporate, desiring to pay taxes upon lands mentioned in this act, may pay the same into the treasury in the manner prescribed by law, or to the sheriff of the county in which such land may be situate; and if paid to the sheriff, the party so paying shall take a receipt therefor from such sheriff, and file the same with the auditor; which receipt, when so filed, shall be regarded as in full payment of the amount therein stated; and the auditor shall execute to the party so filing such receipt, a certificate of redemption, in the same manner as if the money had been paid into the treasury; and the auditor shall charge such sheriff with the amount so paid to such sheriff. All moneys received by any sheriff under

and by virtue of this section, shall be paid by him into the treasury as other revenue, and the sheriffs and their sureties shall be liable for the moneys so received as for other revenue.

Sales of delinquent lands to be postponed by courts.

5. *Be it further enacted,* That so much of the act passed the thirtieth of March, eighteen hundred and thirty-seven, to which this is amendatory, as requires the sales of forfeited lands to be made at the August county courts of the present year, and the commissioners appointed under that act to report to the spring terms of the circuit superior courts to be holden in the present year, shall be, and the same is hereby so far modified as to postpone the sales of the lands in said sections specified to any term or terms of the county courts which the judges of the circuit superior courts may at the next fall terms in their respective counties, from time to time thereafter designate, by an order or orders entered on the records of each of his said courts, and also as to postpone the reports of the commissioners to the next fall term of the said circuit courts for their respective counties; and it shall be the duty of such commissioners to make report as aforesaid to the next fall term of said circuit courts of their counties of all such forfeited lands as may then have come to their knowledge by the list of the auditor hereinafter directed, or otherwise howsoever, and from time to time thereafter, either in term, or to the judge in vacation, as the same may come to their knowledge, until all are reported: *Provided*, That they complete their reports by the close of the fall terms of said circuit courts for their respective counties in the year eighteen hundred and forty.

When sales to be ordered by courts.

6. The judges of the several circuit superior courts to which such reports are returned, shall have power, at any time after the first day of the next fall terms, either in term or vacation, to order sales of the lands reported, from time to time, as the reports are returned, and designate the term of the county court at which the same shall be made, by an order entered on record as aforesaid, when in term time, and by endorsement on the report when made in vacation: and the said judges shall also have power in term time or vacation, to recommit said reports, or set them aside, and direct others by orders on record as aforesaid when in term, and by endorsement as aforesaid when in vacation; and if the sales shall not be made as ordered, the said judges shall have power to make other like orders, and so on from time to time, until the sales are completed; and they shall moreover have power to remove the commissioners for just cause, and to supply any vacancy occasioned by such removal, or by death, resignation, or inability to perform the duties. All reports which shall be confirmed, and all proceedings, orders or decrees which shall be had under this act, or the act to which it is amendatory, shall be recorded by the clerks as other land causes are directed to be; and their fees for such services having been approved and allowed by the court, shall be paid out of the proceeds of the sales.

Reports to be recorded by clerks.

Fees how allowed and paid.

Auditor to make out lists of forfeited lands not redemeed.

Lists what to contain.

7. *Be it further enacted,* That immediately after the first day of July next, it shall be the duty of the auditor of public accounts to cause to be made out in his office for each county lying west of the Alleghany mountains, a list of every tract of land therein, which is now forfeited to, and vested in the president and directors of the literary fund; for the non-payment of taxes charged thereon, and which shall not have been entirely redeemed before that time,

by the owner or claimant thereof, together with all such information as the quantity and location of each of said tracts, and the amount of taxes for which the same was forfeited, and the damages thereon, and when partly paid, the proportion thereby redeemed, and by whom, as the records in his office may furnish, and transmit each list, so soon as made out, to the commissioner or commissioners for the sale of delinquent lands for the county to which such list relates. And it shall moreover be the duty of the auditor aforesaid, the register of the land office, and the clerk of the general court, to furnish to the commissioners of delinquent and forfeited lands, upon application, all such other useful information as their respective offices may afford, touching the duties of said commissioners; and if the auditor and register shall deem it necessary, or shall be otherwise unable to furnish such information without neglecting other official duties, they may employ one or more temporary clerks to assist them, at wages not exceeding fifty dollars per month; and the clerk of the general court, for all duties required by this act to be performed by him, shall be entitled to his legal fees, to be paid out of the treasury.

9. *Be it further enacted,* That when any tract of land so liable to be sold lies partly in more than one county, the same shall be reported, and sold by the commissioner or commissioners of the county in which the greater part may lie; and in the event it shall appear after the sale that the greater part shall not lie in the county where the sale shall have been made, the validity thereof shall not in any wise be affected thereby.

9. *Be it further enacted,* That upon the payment of all the purchase money by the purchaser, it shall be lawful for the commissioner to receive the same, first deducting the interest thereon at the rate of six per centum per annum from the time the same shall be paid, until the time when the same would become due and payable by the terms of the sale, and thereupon the purchaser shall be entitled to his deed for the land so purchased and paid for, upon application to said commissioner, but without warranty.

10. *Be it further enacted,* That so much of the fifth section of the act, entitled, "an act to amend and explain the laws concerning western land titles, and for other purposes," passed March thirtieth, eighteen hundred and thirty-seven, as requires the commissioner to pay into court all moneys received or collected by him by virtue of any sales, shall be, and the same is hereby repealed, and in lieu thereof the said commissioner shall, at the fall term of the superior court of his county, make report to said court of all moneys received by him, and not paid into the treasury of the commonwealth, and in the month of December of each year, pay the amount so reported to be in his hands, in the treasury aforesaid, for the benefit of the literary fund, upon the warrant of the auditor, deducting therefrom such amounts as may be allowed him by the court for commissions, and the reasonable expenses attending the survey and sale of said lands; and it shall be the duty of the several clerks of the courts to which such reports are made, to certify to the auditor, before the first day of December of each year, the amount of money so reported by the commissioner to be in his hands as aforesaid, together with the amount allowed said commissioner by the court aforesaid on account of commissions and the expenses of sale as aforesaid; and upon the failure of said commissioner to pay

List to be furnished
ed commissioners.

Duty of auditor,
register, and clerk
of general court.

Auditor and regis-
ter may employ
clerks.

Fees of clerk of
general court.

By whom lands
lying in different
counties to be
sold.

When and how
deeds for land sold
to be executed.

Proceeds of sales,
how and when
paid into treasury.

Clerks of courts
to certify reports
to auditor.

Remedy against commissioners for default.

into the treasury as aforesaid, he and his securities, his and their heirs, executors and administrators, shall be liable to be proceeded against for such default in the same manner and to the same extent in all respects as sheriffs for their default in paying the revenue; and upon such proceeding, the certificate of the clerk as aforesaid shall be received as *prima facie* evidence of the facts stated therein.

Value of omitted lands, how ascertained.

Acts 1835-6, p. 7.

Rate of damages.

11. *Be it further enacted,* That the second section of the act, entitled, "an act concerning delinquent lands, and land not heretofore entered on the commissioners' books," passed March twenty-third, eighteen hundred and thirty-six, shall be, and the same is hereby declared to be in full force, except so much thereof as relates to the rate of damages, which rate shall be regulated by the provisions of this act.

Limitations of writs of right and actions possessory.

Acts 1836-7, p. 12.

Surplus arising from sales, after paying taxes, to be paid to owner.

12. *Be it further enacted,* That the last clause of the second proviso of the eleventh section of the act, entitled, "an act to amend and explain the laws concerning western land titles, and for other purposes," passed March the thirtieth, eighteen hundred and thirty-seven, be so amended as to make the limitation to real actions provided in that act, apply to such actions only as may be brought two years after the passage of that act.

Proceedings where the owner purchases.

13. It shall be lawful for the auditor, and he is hereby authorized and required to pay to the original owner or owners of any land which shall be sold by the commissioners of delinquent and forfeited lands, the proceeds whereof shall have been paid into the treasury, the residue, after having deducted therefrom all taxes and damages, and all costs or other charges which shall have been incurred in the sale of the said land; and where the original owner or owners of lands which shall be sold as aforesaid, shall become the purchaser or purchasers of the same, or any part thereof, at such sale, it shall and may be lawful for the said court to order the bonds of such purchasers to be cancelled, upon their proving to the satisfaction of the said court, that he, she or they have paid into the treasury to the credit of the commonwealth, since their said purchase, the full amount of all taxes and damages charged upon the lands so sold, and which ought to have been charged thereon, together with all costs attending the proceedings, which costs shall be paid to the officers entitled thereto.

Lands of occupants prior to April 1831, not liable to sale.

14. *Be it further enacted,* That nothing in this act contained shall be so construed as to authorize the commissioners of delinquent lands to sell any portions thereof which were in the actual possession of any one before the first day of April, eighteen hundred and thirty-one, holding under grants from the commonwealth by purchase from the patentee, or those claiming under him, such person having a deed duly recorded before that time for the land so in his possession as aforesaid, and he, or those claiming under him, having paid all the taxes charged or chargeable on the portion so in his possession, since the date of his deed, so that no forfeiture shall have accrued thereon, either to the commonwealth or to the president and directors of the literary fund.

Damages to be paid by Doyle's heirs.

15. *Be it further enacted,* That the heirs of Dennis Doyle shall not be required to pay any higher damages for the redemption of their lands authorized by an act, entitled, "an act authorizing the sale of a portion of the lands of James Doyle, Margaret Doyle and Susan Doyle, heirs of Dennis Doyle, deceased," passed during the present session of the general assembly, than the sum of six per centum per annum on the taxes of each year, until the same is paid.

16. Be it further enacted, That all right, title or interest of the president and directors of the literary fund, or of the commonwealth, in or to any lands lying west of the Alleghany mountains, which have been vested in said president and directors, or of the commonwealth, for arrearages of taxes antecedent to the year eighteen hundred and thirty-one, or for failing to have the same entered on the books of the commissioners of the revenue, and charged with the arrears of taxes due and chargeable thereon, and to pay the same, shall be transferred to and absolutely vested in any and every person or persons other than those for whose default the same have been forfeited, their heirs and devisees, who are now in the actual possession and occupancy of said lands, or any parcel thereof, for so much of said lands as such person or persons have just title or claim to, legal or equitable, *bona fide* claimed, held or derived from or under any grant of the commonwealth, which issued subsequent to the last day of March, eighteen hundred and thirty-one, and prior to the fifteenth of January, eighteen hundred and thirty-eight, and on which taxes have been paid since the issuing of such grants, so that no forfeiture hath accrued thereon, and such actual *bona fide* holder in any action brought against him, her or them, for the recovery of such land in his possession as aforesaid, shall have the full benefit of the title of said president and directors, or of the commonwealth, hereby intended to be transferred to him, her or them.

When right of state vested in occupants holding forfeited lands prior to April 1831.

And whereas James Swan, late of the city of Boston, died seized of various tracts or parcels of land in this commonwealth, lying west of the Alleghany mountains, which have been forfeited to the president and directors of the literary fund, or to the commonwealth; and whereas the said James Swan, by his last will and testament, did direct that his estate, real and personal, should be first charged with the payment of his just debts, which estate, the personality being of no value whatever, is wholly inadequate to the liquidation thereof; and whereas it is represented to the general assembly, that the debts of said estate are chiefly due to officers of the French army, who were in the American service during our revolutionary struggle, or the descendants of such officers, and originated in France after that period by loans and advances made under the promptings of a generous regard for an American citizen and fellow soldier; and whereas the heirs of James Swan, impressed with the obligations of their ancestor to the said creditors, released to them all their interest in said estate, and the said creditors, in order to realize some portion of the amount due thereon, have placed the subject in the hands of John Peter Dumas, whose agent, now here, believing the interest of said creditors will be consulted by abandoning the lands aforesaid, if the taxes and damages thereon shall be exacted for their redemption, appeals to the liberality of the general assembly for their remission: Therefore,

17. Be it further enacted, That all the right, title and interest of the commonwealth, or of the president and directors of the literary fund, to any of the lands owned by James Swan, under title, legal or equitable, lying west of the Alleghany mountain, and which have been forfeited to the commonwealth, or said literary fund, for the non-payment of taxes charged thereon, or for failing to enter the same on the books of the commissioners of the revenue, and having the same charged with all taxes chargeable thereon, and paying the same with damages, as prescribed by law, shall be, and

Right of state to lands of James Swan vested in John P. Dumas in trust for creditors.

Taxes and damages released.

Such land authorized to be sold and conveyed.

Proviso.

Rights of occupants of such lands protected.

Register prohibited from issuing grants except for ascertained lands.
Affidavit of surveyors.

Penalty for swearing falsely.

Commencement.

the same is hereby transferred to, and vested, except as hereinafter excepted, in John Peter Dumas, in trust, for the use and benefit of the creditors of James Swan, discharged from all taxes and damages charged or chargeable thereon, before the first day of January, eighteen hundred and thirty-eight.

18. Be it further enacted, That the said John Peter Dumas shall be authorized to hold said land for the use and benefit aforesaid, and that any sale made by him, or his legally constituted attorney in fact, of any part or parcel thereof, shall be valid and sufficient to convey the title with which he is hereby invested: *Provided however,* That nothing in this or the preceding section shall in any wise affect the right or title of any *bona fide* occupant, whose rights are secured by any pre-existing law.

19. Be it further enacted, That the two sections next preceding shall in no wise affect any parcels of said land in said sections specified, now in the actual possession of any *bona fide* occupant, holding mediately or immediately under grants from the commonwealth, and upon which parcels of land embraced in such grants, taxes shall have been so paid, from the emanation thereof, that no forfeiture shall have accrued thereon either to the commonwealth, or to the president and directors of the literary fund; but in such cases, the title of the commonwealth shall be, and the same is hereby transferred to and vested in such *bona fide* occupant, to the extent of his possession under said grant; and such *bona fide* occupant in any action brought against him, her or them, for the recovery of such land in his possession as aforesaid, shall have the full benefit of the title of said president and directors, or the commonwealth, hereby intended to be transferred to him, her or them.

20. And be it further enacted, That it shall not be lawful for the register of the land office to issue any grants for land after the thirtieth day of November next, except upon surveys on which shall be endorsed an affidavit of the principal surveyor of the county, that he verily believes that the land embraced in the said survey has not been previously appropriated; and if any surveyor shall swear falsely in such affidavit, he shall be subject to the pains and penalties of perjury.

21. This act shall be in force from the passage thereof.

CHAP. 9.—An ACT concerning the destruction or removal of land marks.

(Passed March 6, 1838.)

Punishment for destroying, removing or defacing land marks.

1. Be it enacted by the general assembly, That if any person shall wilfully or maliciously, and without lawful authority, cut down any tree marked as a line tree to designate the dividing line or corner between different tracts or parcels of land, knowing the same to be a line tree or corner tree, or shall wilfully or maliciously, and without lawful authority, destroy or obliterate any marks or chops made thereon by the processions, or shall wilfully or maliciously, and without lawful authority, destroy, deface, or remove any other land mark which may have been made or fixed for the purpose aforesaid, he shall be guilty of a misdemeanor, and shall be punished therefor as in other cases of misdemeanor.

Commencement.

2. This act shall be in force from the passing thereof.

CHAP. 10.—An ACT to revive the processioning of lands in the county of King William.

(Passed February 6, 1838.)

Whereas, by an act, entitled, "an act suspending the processioning of lands in Prince William, Fauquier, King George, King William and Lunenburg counties," passed March the eighth, eighteen hundred and thirty-four, the processioning of lands in said counties was suspended for the term of twelve years from the passing thereof, and although the term of such suspension has not yet nearly expired, the inhabitants of King William county being desirous that processioning of lands therein should be resumed: Therefore,

1. *Be it enacted by the general assembly,* That so much of said act as concerns the county of King William, shall be and the same is hereby repealed; and that it shall be lawful for the county court of King William county to proceed to the appointment of processioners of land for said county at their next February court; and ^{County court of King William to appoint processioners.} Their duties. the processioners so appointed shall proceed to execute all the duties heretofore required of processioners, and shall complete the same and make report thereon, on or before the May term of said county court of the present year, subject to all the rules and regulations, fines and penalties, prescribed in the act, entitled, "an act to reduce into one act the several acts concerning the land office, ascertaining the terms and manner of granting waste and unappropriated lands, directing the mode of processioning, and prescribing the duty of surveyors," passed March the first, eighteen hundred and nineteen; and that thereafter the processioning of lands in said county shall be done and performed in the manner prescribed by the act herein last recited.

2. This act shall commence and be in force from the passing commencement thereof.

CHAP. 11.—An ACT concerning the processioning of lands in the county of Bedford.

(Passed March 7, 1838.)

1. *Be it enacted by the general assembly,* That it shall be lawful for the court of the county of Bedford to cause lands within the limits of the said county to be processioned whenever it shall appear to them that the interests of the proprietors of the lands therein require it, whether it be in every six years or at longer intervals: *Provided however,* That before the said court shall appoint processioners or make any other procedure therein, they shall make an order, to be entered of record, requiring the sheriff of the said county to summon the acting justices thereof to attend at the courthouse of their county, on some day to be named in the said order, for the purpose of considering of the propriety of processioning every person's land in the county aforesaid; and upon a majority of the acting justices attending for that purpose, and being of opinion that every person's land in the said county ought to be processioned, they shall appoint processioners, whose duty it shall be to proceed in all respects as required by the act, entitled, "an act to reduce into one act the several acts concerning the land office, ascertaining the terms and manner of granting waste and unappropriated lands, directing the mode of processioning, and prescribing the duty of surveyors," passed the first of March, eighteen hundred and nineteen. ^{Court of Bedford to cause lands to be processioned. Justices to be summoned. 1 Rev. Code 1819, ch. 86, pp. 322-340.}

Repealing clause. 2. *And be it further enacted,* That all acts and parts of acts heretofore made, suspending or not requiring lands to be processioned, so far as the same may apply to the said county of Bedford, shall be and the same are hereby repealed.

Commencement. 3. This act shall be in force from the passing thereof.

CHAP. 12.—An ACT providing for the negotiation of loans for purposes of internal improvement.

(Passed April 9, 1838.)

State loans, how to be negotiated.

1. *Be it enacted by the general assembly,* That all loans hereafter authorized by law for the payment of subscriptions on behalf of the commonwealth to the capital of joint stock companies incorporated for purposes of internal improvement, or for defraying the expense of any work of internal improvement in which the state is or may be interested, as well as all such loans heretofore authorized, shall be negotiated according to the provisions of this act, except so far as may be otherwise specially provided by the acts authorizing the loans.

Rate of interest.

2. The board of public works, in effecting such loans, shall borrow upon the credit of the commonwealth, at the lowest rate of interest at which the necessary amount can be obtained, not exceeding in any case five per centum per annum. Upon the payment of the money so borrowed into the treasury, which shall be done upon the warrant of the second auditor, the treasurer shall issue a certificate or certificates of loan for the amount thereof, purporting that the commonwealth of Virginia owes to the lender, his heirs, executors, administrators and assigns, the principal sum so borrowed, together with the interest at the rate agreed on, that the interest is payable semi-annually at the treasury of the commonwealth, and that such certificate or certificates were issued under authority of the special act authorizing such loans. Each certificate shall be signed by the treasurer, and countersigned by the second auditor, and be registered in a book to be kept for that purpose by the second auditor, and shall be transferrable on the books of his office in person or by attorney. The semi-annual interest on such certificate shall be paid on his warrant, and upon the transfer of the whole or any part thereof, shall be delivered up and cancelled, and a new certificate or certificates equal to its whole amount, shall be issued and registered in manner aforesaid.

How transferable.

All loans negotiated in conformity to this act shall be irredeemable for twenty years, but shall afterwards be redeemed at the pleasure of the general assembly.

Loans, when redeemable.

3. For the payment of the interest, and the final redemption of the principal of any sum to be borrowed in conformity to this act, the stock of any joint stock company subscribed for or purchased with the money so borrowed, together with the dividends and other nett income which may accrue therefrom to the commonwealth, or to the fund for internal improvement, shall be, and the same are hereby appropriated and pledged; and in like manner the nett income and other profits which may so accrue from works in which the state is interested, other than those of joint stock companies, and on which the money borrowed is to be expended, shall be and the same are likewise hereby appropriated and pledged for the payment of the interest and redemption of the principal of the money so borrowed: and if the stock aforesaid, and the said dividends, nett profits and other income shall be inadequate to the payment of

Security for payment of principal and interest.

the said semi-annual interest, and the final redemption of the principal, of the respective loans, the general assembly pledges itself to provide other and sufficient funds, and for that purpose to levy, if necessary, an adequate tax upon any or all subjects liable to taxation under the constitution. Until such other sufficient funds shall be provided, so much of the income of the fund for internal improvement, not otherwise specially appropriated, as may be necessary to supply the deficiency, is hereby pledged for such purpose: and if at any time the dividends and other income arising from the stock or work as aforesaid, together with the income of the fund for internal improvement, shall be insufficient to pay the interest due upon the loan when demanded, the auditor of public accounts shall, upon the application of the board of public works, issue his warrant upon the treasury, directing the payment of such interest out of any moneys therein not otherwise appropriated. And in case of the inability of the treasury at any time to discharge such warrants, the board of public works shall be and they are hereby authorized to borrow the necessary amount from the banks of this state, at a rate of interest not exceeding six per centum per annum, on the credit of the commonwealth, to be repaid in such manner as the general assembly may by law direct.

4. The surplus dividends and other income arising from any stock or work as aforesaid, and remaining after the payment of the interest due upon the certificates issued for loans applied to such stock or work, shall from time to time be applied by the board of public works to the purchase of such certificates, if to be procured on satisfactory terms; and if not, then of any other certificates of state debt, or any other public debt or other stock which can be so purchased, which shall be held as a fund for the payment of the interest and redemption of the principal of the loans obtained for the payment of such stock or such work, and the interest accruing therefrom shall also from time to time be invested and held in like manner: and the said certificates of debt so purchased, together with the stock pledged, shall be disposed of in such manner as the general assembly may direct: *Provided*, That the certificates so purchased on account of any particular loan, or such part thereof as may be necessary, shall from time to time be sold by the board of public works to reimburse the fund for internal improvement for all payments of interest made out of the income for that fund on account of such loan, by virtue of this act.

5. The board of public works shall be and they are hereby fully authorized and empowered to procure any or all of the loans authorized by law, either in the United States or in Europe, as they may deem most advantageous to the public interest, and for that purpose to appoint, if they see fit, one or more agents, with the necessary powers, and to allow him or them such compensation as they may deem reasonable. In the event of a loan or loans being effected in Europe, the said board may provide for the payment of the interest on the same semi-annually, in London or elsewhere, and may stipulate for the payment by the lenders of the amount of such loans in England or elsewhere, conforming the certificates to be issued to the terms of the loans. They shall also be empowered generally to do and execute all such acts and writings as may be necessary to complete the said loans, and to cause the prompt payment of the amount thereof into the public treasury.

Who to be deemed owner of certificates of debt.

6. Be it further enacted, That the person or persons, body or bodies politic or corporate, in whose names any of the certificates of the public debt of this commonwealth shall be issued, in conformity to the provisions of this act, shall be deemed as to the commonwealth the owner of the said stock until a transfer shall be duly made on the books of the second auditor, or other proper officer, to some other person or body politic or corporate. And if the person or body politic or corporate, in whose name the said certificate shall stand, shall for valuable consideration, and *bona fide*, sell and deliver the said stock to any other person, body politic or corporate, accompanied by a power of attorney duly executed and authenticated, such sale and delivery shall vest in the transferee all the title of the transferor, either in law or equity, to the said certificate; and upon the application of the attorney, and delivery of the certificate of debt therein assigned to the second auditor, or other proper officer of the commonwealth, it shall be his duty to transfer the same, and issue a new certificate or certificates therefor in the name of the transferee: *Provided, however,* That all payments made by the commonwealth prior to such transfer, on account of the interest on such certificate, shall discharge the commonwealth from all claim on account of the interest so paid.

Transfers of stock to executors, &c., how made.

7. If any person, in whose name the said stock shall stand on the books of the commonwealth, shall die without having made a sale or transfer thereof, and his executor or administrator shall produce to the second auditor, or other proper officer, the original certificate or certificates of the said stock, and duly authenticated evidence that he is, by the laws of the country in which such holder may have died, the lawful executor or administrator of such holder, the second auditor shall, on his application in person, or by power of attorney duly authenticated, transfer the said stock to the said executor or administrator, or to such person as he may direct.

Renewals of lost certificates.

8. Whenever any certificate of stock created in pursuance of the provisions of this act, or by authority of any previous act, for purposes of internal improvement, shall have been lost, by the holder or holders thereof, it shall and may be lawful for the second auditor and treasurer to renew the same in the manner mentioned in this act: *Provided, however,* That such certificate shall not be renewed until the party applying for the same shall produce satisfactory proof of his having advertised the same for at least three months previously to his application; shall execute a bond with sufficient security, to the treasurer and his successors, conditioned to indemnify the commonwealth against any loss in consequence of the renewal of such certificate, and shall moreover file an affidavit, setting forth the time, place and circumstances of the loss aforesaid.

Banks authorized to negotiate loans for state.

9. It shall be lawful for any bank incorporated in this commonwealth, through its proper officers, and by the authority, and under the direction of the said board, to act as the agent of the board of public works in negotiating, obtaining or contracting for any loan which may be so authorized, and to do all necessary acts for the transfer of the proceeds of such loan into the public treasury, in specie or other satisfactory funds, by bills of exchange or otherwise, and to make on behalf of the said board the necessary arrangements for the punctual and regular payment of the interest on such loan, according to the terms of the contract therefor.

10. And whereas, should large sums be borrowed, of which a considerable part would necessarily lie idle until required for the purposes for which the loans may be respectively designed, whereby a great loss of interest would be incurred, the board of public works may deposite the same with the banks of this commonwealth, at such rate of interest as may be agreed upon by the board and said banks. The said board may also lend such part thereof to joint stock companies, as the said companies may be entitled by law to receive from them at subsequent periods, on such conditions and security as the board may deem expedient.

Money borrowed
may be loaned to
banks.

Also to joint stock
companies.

11. This act shall be in force from its passage.

Commencement.

CHAP. 13.—An ACT to provide for the payment of the interest on the public debt in specie, or its equivalent.

(Passed March 28, 1838.)

1. *Be it enacted by the general assembly,* That the interest which shall hereafter accrue on the existing debts of the commonwealth, for loans obtained, and on the debts which may be created for future loans, shall be paid in the current gold and silver coins of the United States, at their value as established by law, or in their equivalent, at the option of the holder.

Interest of loans
payable in specie
or its equivalent.

2. *Be it further enacted,* That all warrants which shall be drawn upon the treasury in payment of the interest aforesaid, by the auditor of public accounts, or the second auditor, shall be discharged by the bank or banks at which such warrants shall be made payable by the checks of the treasurer, in the manner prescribed in the foregoing section: *Provided*, That the said bank or banks shall be entitled to a credit in account with the commonwealth for whatever premium or discount the said bank or banks may be subjected to in making payment of the several warrants or checks as directed by this act.

Banks to pay war-
rants in specie

Allowed amount
of premium paid
by them for specie.

3. This act shall be in force from its passage.

Commencement.

CHAP. 14.—An ACT concerning claims against the commonwealth.

(Passed March 20, 1838.)

1. *Be it enacted by the general assembly,* That it shall be lawful for all persons having claims against the commonwealth, legal or equitable, and whether the amount be liquidated or not, to present them to the auditor, and if the same be not allowed, to proceed according to the sixth section of the "act to reduce into one the several acts concerning the auditor and treasurer;" and upon the filing of any petition as therein is allowed, it shall be the duty of the auditor forthwith to file an answer, stating his reasons for not allowing the claim, and all objections which in his opinion the commonwealth ought to make thereto; and thereupon the court shall proceed without delay to consider and decide the cause upon such legal evidence as may be offered on either side, and shall make such order or decree as may be legal or equitable in the case, and if it be proper, may require a jury to be impanelled to ascertain disputed facts, or the amount of any unliquidated claim. If either party shall require it, the court shall certify every material fact which shall be proved, and such certificate shall be a part of the record. If the court dis-
Rev. Code, p. 2.
§ 6.
Duty of auditor.
approve the verdict in any case, the same may be set aside, and a new jury be impanelled, and appeals may be allowed as in other Appeals.

When jury may
be impanelled.

Penalties for violating law.

from such student, his parent or guardian, or other person, any thing whatever on account of the thing so sold or let to such student, or other person for his use; and the person so offending shall moreover forfeit and pay to the university or college to which such student may belong, the whole or value of the thing so sold or let, or the whole amount of the money so lent, or the debt contracted under such letter of credit, or of other authority as aforesaid; and shall moreover forfeit and pay to such university or college the sum of

How recoverable.

twenty dollars for each offence; which penalties may be recovered by action of debt, action on the case, information or indictment in any court of record having jurisdiction over the county or corporation wherein the offender may reside, or wherein the university or college suing may be situated: *Provided, however,* That if any such

How principals may be exonerated for acts of agents.

sale, letting or loan shall be made, or any such credit shall be given by any agent, without the knowledge or consent of his principal, and such principal shall within ten days after he shall be informed thereof, give notice in writing to the president, chairman or other proper officer of the university or college to which the student belongs, of such sale, letting, loan or credit, and of the true amount and date thereof, then such principal shall not be deemed guilty of any offence under this act, nor be subject to the penalties hereby given to such university or college, but the offending agent alone

How party exonerated from penalties where cash sales are intended, though not paid.

shall be subject to them: *Provided moreover,* That if any such sale or letting for hire shall be made with a *bona fide* expectation on the part of him making it that immediate payment is to be made therefor, then although the thing so sold or let for hire shall not have been paid for at the time, if within ten days thereafter he shall give notice in writing to the president, chairman, or other proper officer of the university or college to which the student belongs, of such sale or letting, and the time, amount and date thereof, the person making such sale or letting shall not be deemed guilty of any offence under this act, nor be subject to the penalties hereby given to such university or college.

Offence declared a misdemeanor.

2. *And be it further enacted,* That any person offending as aforesaid shall be deemed guilty of a misdemeanor, punishable according to the course of the common law, and shall be deemed guilty of a breach of good behaviour; and any justice of the peace within this commonwealth, who, from his own observation, or from the observation of others, shall have good cause to believe that an offence against the law has been committed, shall have power, and it shall be his duty to cause the supposed offender to be brought before him, with such witnesses as may probably give evidence of the offence; and if it shall thereupon appear that such offence has been committed, he shall bind such offender in a recognizance with proper sureties to appear before the next superior court of the county or corporation having cognizance of the offence, or before such court then in session, to answer such offence, and in the mean time to be of good behaviour; and he shall moreover bind all the witnesses whom he may deem material, in a proper recognizance to appear at the same court. And if any such offender shall fail to enter into such recognizance, he shall be committed to jail, there to remain until discharged by due course of law. The proceedings of the justice herein, together with the recognizances taken by him, shall forthwith be returned to the court aforesaid.

When offender may be committed to jail.**Proceedings of justice to be returned to court.**

3. *And be it further enacted,* That if any person convicted of an offence against this act, either at the suit of a college or university, or at the suit of the commonwealth, shall, at the time of such conviction, be a merchant or tavern keeper, or engaged in any other of the trades or occupations mentioned in the first section of this act, in pursuance of a license granted under the laws of this commonwealth, or shall have been engaged in any such trade or occupation, under such license at the time when the offence was committed, his license shall be held null and void from the period of such conviction, and he shall be absolutely disqualified for one year thereafter, from carrying on the same trade or occupation under any other license; and such forfeiture and disqualification shall be the legal consequence of such conviction, whether it be so expressed in the judgment or not.

4. *And be it further enacted,* That this act shall be constantly given in charge to the grand jury, by the judges of the circuit superior courts respectively, in those counties in which the universities and colleges aforesaid are respectively situated.

5. All prosecutions under this act, and all actions for the penalties hereby given, must be commenced within five years next after the offences respectively shall be committed, and not after.

6. This act shall commence and be in force from and after the first day of September next.

CHAP. 19.—An ACT to provide for the establishment of the Virginia asylum for the education of the deaf and dumb and of the blind.

(Passed March 31, 1838.)

1. *Be it enacted by the general assembly,* That there shall be established on a site, at such place as the legislature may by joint resolution select, an institution to be called "The Virginia institution for the education of the deaf and dumb and of the blind," which shall be under the government of seven visitors, to be appointed annually by the president and directors of the literary fund, who shall notify them of their appointment, and prescribe a day for their first meeting, or in the event of failure, for a subsequent one.

2. The said visitors, or a majority, shall appoint from their own body, a president to preside at their meetings, and a secretary to record, attest and preserve their proceedings.

3. In the said institution, there shall be two schools, each separate and distinct from the other in all respects whatsoever. In one of them, such deaf mutes, and in the other, such blind pupils as may be placed in said institution, as hereinafter provided, shall be exclusively educated under so many professors, instructors and assistants as may be deemed necessary and expedient by the board of visitors.

4. The said visitors shall be charged with the erection, preservation and repair of the buildings, the care of the grounds and appurtenances, and of the interests of the institution generally. They shall have power to employ all necessary agents; to appoint and remove professors (two-thirds of the whole number concurring in every case of removal); to fix their compensation; prescribe their duties and the course of education in each school; to establish rules for the government and discipline of the pupils; to regulate tuition fees; to prescribe and control the duties and proceed-

Offender, trading
under state li-
cense to forfeit it.

How long disqual-
ified from trading
under other li-
cense.

Act to be given in
charge to grand
juries.

Limitation of pro-
secutions.

Deaf and dumb
asylum estab-
lished.

Visitors, how ap-
pointed.

President and se-
cretary to visitors.

Two schools to be
formed.

Powers and duties
of visitors.

ings of all officers, servants and others, with respect to the buildings, lands, appurtenances and other property and interests of the institution; to draw from the literary fund or the treasury, such moneys as are or shall be charged by law on either for the benefit and support of the institution; and in general, to direct and do all matters and things, which, not being inconsistent with the constitution and laws of the United States or of this state, shall seem to them most expedient for promoting the purposes and fulfilling the objects of said institution; which several functions they shall be free to exercise in the form of by-laws, rules, resolutions, orders, instructions or otherwise, as they shall deem proper.

Meetings of visitors.

Quorum of board; vacancies supplied.

Incorporated.

Name.

Corporate powers.

Institution under control of legislature.

Report to board of literary fund.

What to contain.

What persons to be maintained and educated at state expense.

How others may be admitted into the institution.

Endowment of institution.

5. The said visitors shall have such stated and occasional meetings as they shall themselves prescribe. A majority shall constitute a quorum for business, and all vacancies occurring by death, resignation, removal from the commonwealth, or failure to act for the space of six months, shall be supplied by the appointing power.

6. The president and visitors shall be, and they are hereby declared to be a body corporate, under the style and title of "The president and visitors of the Virginia institution for the education of the deaf and dumb and of the blind," with the right, as such, to use a common seal, to plead and be impleaded, in all courts of justice, and in all cases in which the interests of the institution are involved; and they shall be capable in law, and in trust for the institution, of receiving subscriptions and donations, real and personal, as well from bodies corporate, and persons associated, as from private individuals.

7. The institution hereby established, shall in all things, and at all times, be subject to the control of the legislature; and it shall be the duty of the board of visitors annually to make a report to the president and directors of the literary fund, (to be laid before the general assembly,) which shall embrace a full account of the receipts and disbursements, the funds on hand, and a general statement of the condition of said institution.

8. There shall be maintained and educated at the public expense, at the institution hereby established, such poor and destitute deaf mutes and blind persons as are unable to pay for such maintenance and education, to be selected in the mode that the board of visitors shall prescribe: *Provided nevertheless*, That such selection shall be made with a due regard to the claims of every portion of the commonwealth. There shall also be educated in both of said schools, such other deaf and dumb and blind persons, whether from Virginia or elsewhere, and whether sent at individual or at state expense, as said board of visitors shall deem it advisable to admit, and upon such terms for their instruction and support as they may prescribe.

9. *Be it further enacted*, That there shall be appropriated out of the revenue of the literary fund which had accumulated prior to the passage of the act appropriating the surplus revenue of the literary fund, passed March the twenty-second, eighteen hundred and thirty-six, so much as shall be necessary, not exceeding twenty thousand dollars, for the purpose of procuring a suitable site or sites, and for erecting thereon the necessary buildings; and the further sum of ten thousand dollars shall be annually applied to the support of said institution: *Provided however*, That not more than one half of the first mentioned appropriation shall be expended

in one year: *And provided also,* That no portion of the annual endowment shall be paid until the institution goes into actual operation; and it shall be discretionary with the president and directors of the literary fund, at any time, to withhold any part of said annual endowment, if not required by the wants of the institution.

10. *Be it further enacted,* That when the institution hereby established shall go into operation, the appropriation of the surplus revenue of the literary fund by the act of twenty-second of March, eighteen hundred and thirty-six, shall be limited to the sum of twenty-five thousand dollars; and all excess of such surplus, if any, not exceeding ten thousand dollars, shall be applied in payment of the annuity herein before granted; and if such excess should not amount to ten thousand dollars, the deficiency shall be charged upon the ordinary revenue of the state.

Appropriation of
surplus revenue to
primary schools
limited.

Excess to be ap-
plied to annuity for
asylum.
Deficiency to be
paid from trea-
sury.

11. This act shall be in force from and after the passing thereof. *Commencement.*

CHAP. 20.—An ACT to amend an act, entitled, “an act appropriating the surplus revenue of the literary fund.”

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That the act, entitled, “an act appropriating the surplus revenue of the literary fund,” passed the twenty-second day of March, eighteen hundred and thirty-six, be so construed as to authorize the school commissioners of the several counties, cities, towns and boroughs to apply the whole, or a part of the additional fund from the surplus revenue, to the colleges or academies within their respective counties and corporations, as they may deem most advisable.

Power to apply ad-
ditional fund from
surplus revenue to
colleges or acad-
emies.

And whereas it appears that the school commissioners of several counties of the state, in disposing of the surplus fund under the act aforesaid, have entertained the opinion that they had the power to appropriate the same temporarily to the use of academies, and to lessen such appropriation thereafter with a view to the assistance of other academies, or to withdraw the same altogether, as the claims of such other academies, or the exigencies of the poor might in their opinion require:

2. *Be it therefore further enacted,* That in all such cases the school commissioners shall be at liberty at their first annual meeting after the passage of this act, to reconsider their proceedings, to revoke the same, or to apply the surplus quota in the manner provided by the first section of this act: *Provided however,* That all payments which have been made to academies under the act aforesaid, in conformity to the directions of the school commissioners of any county or corporation, and which may be so made at any time prior to the first day of October next, shall remain to the use of the said academies.

School commis-
sioners authorized
to revise proceed-
ings relative to
academies.

Payments heretofore made to ac-
ademies to stand.

3. This act shall be in force from its passage. *Commencement.*

CHAP. 21.—An ACT providing for the enlargement of the lunatic hospitals of the commonwealth, and for other purposes.

(Passed April 3, 1838.)

1. *Be it enacted by the general assembly,* That the directors of the Western lunatic asylum, or any seven of them, shall be, and they are hereby empowered to contract for the extension of the buildings of that institution, so as to make the same fit for the reception and accommodation of an additional number of lunatics,

Western lunatic
hospital to be en-
larged.

having previously given public notice by advertisement in some newspaper printed in the city of Richmond, and in some other newspaper printed in the town of Staunton, for sixty days, that they will receive proposals for the building thereof; and shall take bond, with sufficient security, from the contractor or contractors, in the penal sum of twenty-four thousand dollars, payable to themselves, and their successors in office, conditioned for the faithful performance of said contract, under the immediate superintendence of said directors.

Appropriation for erecting buildings.

2. The said directors shall have full power, from time to time, to order and direct their treasurer to draw upon the treasurer of the commonwealth (to be audited by the auditor of public accounts) for such sums of money as may be necessary to defray the expenses of said additional building: *Provided*, That the plan and dimensions of said building shall be agreed upon and prescribed by said directors: *And provided also*, That the whole expense thereof shall not exceed twelve thousand dollars.

Eastern hospital to be enlarged.

3. *Be it further enacted*, That the directors of the lunatic hospital at Williamsburg, shall be, and they are hereby empowered, in like manner, and for the same purposes as above prescribed, to contract for and cause to be erected an additional building for that institution, calculated to accommodate an additional number of lunatics: *Provided*, That the mode of making the contracts therefor, and the payment on that account from the treasury, shall be the same as above provided for the Western lunatic hospital: *And provided also*, That the whole expense thereof shall not exceed twelve thousand dollars.

Appropriation therefor.

4. *Be it further enacted*, That the directors of the Western lunatic hospital are hereby authorized and empowered, in behalf of that institution, to direct their treasurer to draw upon the treasurer of the commonwealth (to be audited by the auditor of public accounts) for such sums of money as may be necessary for the purchase of land near said hospital, the erection of workshops, the purchase of tools and materials for manufacture, and such other articles as are recommended by the report of the physician of the Western lunatic hospital, or by the report of the directors of said institution to the present general assembly: *Provided*, That the expenditures thereby incurred do not exceed five thousand dollars.

Sum for enclosures, &c., for Eastern hospital.

5. *Be it further enacted*, That the directors of the lunatic hospital at Williamsburg, shall be, and they are hereby empowered to contract for the enclosures and other buildings recommended in the report of the directors of that institution, to the present general assembly, on the terms they may think most suitable; and they shall have full power to order their treasurer to draw on the treasurer of the commonwealth for such sum or sums of money (to be audited by the auditor of public accounts) as may be necessary to complete the same: *Provided*, That the whole expense thereof shall not exceed five thousand dollars.

Commencement.

6. This act shall be in force from its passage.

CHAR. 22.—An ACT to supply the deficiency in the appropriations to the Western and Eastern lunatic hospitals for the past fiscal year.

(Passed March 8, 1838.)

Additional appropriation to Western hospital.

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall be and he is hereby authorized and required

to issue his warrant on the treasury in favour of the Farmers bank of Virginia, or the cashier thereof, which said bank has advanced the same to the treasurer of the Western lunatic hospital, for the sum of three thousand dollars, and charge the appropriation for the past fiscal year, the same having been expended by that institution beyond said appropriation.

2. *And be it further enacted,* That the auditor of public accounts shall be and he is hereby authorized and required to issue his warrant on the treasury to the treasurer of the Eastern lunatic hospital for the sum of three hundred and sixty dollars and seven cents, and charge the same to the appropriation for the past fiscal year, the same having been expended by that institution beyond that appropriation. Additional sum to Eastern hospital. See post. ch. 23.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 23.—An ACT to amend an act, entitled, “an act to supply the deficiency in the appropriations to the Western and Eastern lunatic hospitals for the past fiscal year.”

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That the auditor of public accounts shall be and he is hereby authorized and required to issue his warrant on the treasury to the treasurer of the Eastern lunatic hospital, for the sum of six hundred and forty-nine dollars, and fifty-five cents, and charge the same to the appropriation for the past fiscal year, the same having been expended by that institution beyond that appropriation, over and above the sum provided for that institution, by the act of the seventh* of March, eighteen hundred and thirty-eight, entitled, “an act to supply the deficiency in the appropriations to the Western and Eastern lunatic hospitals for the past fiscal year.” *Should be eighth. See ante. ch. 23.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 24.—An ACT directing the manner of supplying the capitol and governor's house with water.

(Passed March 28, 1838.)

Whereas the common hall of the city of Richmond has agreed Preamble. to furnish, free of charge, a supply of water for the use of the capitol and governor's house, to be taken from the intersection of G and ninth streets, upon condition that the state will defray the expense of laying pipes, through which the same may be conducted, and erecting the necessary fire plugs and hydrants, for the convenient use of the water as hereinafter mentioned :

1. *Be it therefore enacted by the general assembly,* That the superintendent of public edifices be, and he is hereby authorized and required, as soon as practicable after the passage of this act, to make all contracts necessary for the purpose of having conducted in iron pipes of six inches calibre, to be laid a suitable distance below the surface, the water, from the intersection of G and ninth streets, along the avenue of the public square, passing by the governor's house, to the most convenient point of intersection with the pipes conveying the water along thirteenth street; that, from the line of pipes thus required to be laid, the said superintendent shall have the water conveyed from the most suitable points in pipes of four inches calibre, on both sides of the capitol, at a convenient distance opposite the eastern and western doors thereof, and from the

The capitol and
governor's house
to be supplied with
water.

Public Buildings and Officers.—Penitentiary.

termination of one of these pipes, to the south end of the capitol, and cause to be inserted at the three last mentioned points of termination of the said pipes, proper fire plugs, and also another fire plug near the governor's house; and the said superintendent is also hereby required to have the water conveyed in pipes of suitable size, within the enclosure around the governor's house, and have erected there a proper hydrant, as well as one other at the south end of the capitol, for the convenient use of the water.

Expense how defrayed.

2. *Be it further enacted*, That when the work herein required to be done shall have been completed, it shall be the duty of the said superintendent to make a report to the executive, and if the same be approved, the expenses attending the execution thereof shall be paid by warrant of the auditor of public accounts upon the treasurer, out of any money in the treasury not otherwise appropriated.

Commencement.

3. This act shall be in force from its passage.

CHAP. 25.—An ACT concerning certain public property, and the official bonds of certain public officers.

(Passed April 6, 1838.)

Rents of museum and stable how collected and paid into treasury.

1. *Be it enacted by the general assembly*, That it shall be the duty of the superintendent of public buildings to receive and collect from the tenants of the museum property and lot, and the old stable formerly used by the governor, the rents thereof, from time to time, as they may become due, and pay the same into the public treasury; and the said superintendent is hereby authorized to apply so much of the money accruing from the rent of the said old stable as may be necessary, to the repairs of the same, before paying the same into the treasury, and return a statement of the expense thereof to the auditor of public accounts.

J. B. Richardson authorized to occupy powder magazine.

2. *And be it further enacted*, That any penalty or liability incurred by John B. Richardson, by reason of his occupying heretofore the old powder magazine, shall be, and is hereby remitted to him: *Provided*, That he shall, when required by the executive, return the said premises in as good repair and condition as he found them, and he may continue to occupy the same during the pleasure of the executive.

Officers' bonds to be submitted to attorney general.

3. *And be it further enacted*, That it shall be the duty of the several officers of government who are elected by the general assembly, and are required to give official bonds, to submit such bonds to the attorney general for examination, and if they be, in his opinion, in proper form, and legally executed, he shall make an endorsement to that effect on the bonds, previously to the delivery thereof to the executive.

Commencement.

4. This act shall be in force from its passage.

CHAP. 26.—An ACT concerning the penitentiary.

(Passed April 6, 1838.)

Solitary confinement of prisoners abolished.

1. *Be it enacted by the general assembly*, That so much of the criminal law as requires the courts of this commonwealth, in cases of felony, punishable in the public jail and penitentiary house, to render judgment for the infliction of solitary confinement, shall be, and the same is hereby repealed, as to crimes committed after the passage of this act; and hereafter solitary confinement shall be dis-

pensed with, except so far as may be necessary for the proper discipline and good government of the institution.

2. Be it further enacted, That the board of directors of the penitentiary, cause the front building of the institution to be put in a proper condition for the residence of the superintendent; and the said superintendent, while residing therein, shall have his fuel as heretofore; and also provide a place for the guard to sleep without the said building.

3. Be it further enacted, That the bills or invoices for raw materials or other articles, purchased by the general agent for the penitentiary, required by law to be received by the assistant keepers of the wards respectively, shall hereafter be received by the superintendent, or any one of the assistant keepers who shall see said materials or articles delivered. And when purchases shall be made by the superintendent, or by his authority, the superintendent, or assistant keeper, as aforesaid, shall give receipts for such materials or articles. The second section of the act concerning the penitentiary See acts 1829-30, institution, passed the twentieth day of February, eighteen hundred p. 8, § 2. and thirty, shall be, and the same is hereby repealed.

4. Be it further enacted, That whenever the governor shall order an examination into the conduct of any officer or other person, in regard to the duty of such officer or person, in relation to the penitentiary institution, he may authorize the board of directors to award subpoenas for witnesses, and to examine them on oath or affirmation; and any oath or affirmation taken falsely under the authority hereby given, shall be perjury. Witnesses, for their attendance before the board, shall be allowed and paid out of the funds of the institution, the compensation allowed for like attendance before a justice of the peace: and they shall be subject to the same fine and recovery for any failure to attend the summons of the board, as for a like failure to attend the summons of such justice; which fine shall be recoverable before any justice of the peace in the county or city where the delinquent shall reside or be found: Provided, That no testimony taken as aforesaid, shall be read on the trial of any officer or soldier of the public guard.

5. This act shall be in force from its passage.

CHAP. 27.—An ACT to provide for the further repairs of the public arms and the armory building.

(Passed April 4, 1838.)

1. Be it enacted by the general assembly, That in addition to the unexpended balance of the last fiscal year, appropriated for the use of the public armory, by the act of the twenty-fifth of March, for the purpose of carrying the provisions of that act into effect, the further sum of three hundred dollars shall be, and the same is hereby appropriated for the purpose of completing the repairs to the foundry building and boring mill, and to construct a line shaft and drum, so as to connect with the machinery at the armory, for the purpose of propelling grindstones. And the auditor of public accounts upon certificate from the governor, is hereby authorized and required to issue his warrants upon the treasury to the amount hereby appropriated, and the unexpended balance aforesaid.

2. Be it further enacted, That it shall be the duty of the superintendent of the public armory to cause the muskets and swords by him reported to the executive, and communicated to the present

Residence of superintendent; repairs to building.
Fuel allowed superintendent.

Sleeping apartment for guard.

Receipts for articles purchased, how given.

Power to directees to summon and examine witnesses.

Compensation to witnesses

Penalties against them.

How recoverable.

Testimony not to affect public guard.

Commencement.

Appropriation for repairs to foundry and boring mill.

Arms reported out of order to be repaired.

Unit for repair, to be sold. general assembly as out of order, to be carefully examined, and from amongst them, select such are worth repairing, and shall sell the residue for the best price that can be obtained at public auction, and pay the money arising therefrom into the treasury.

Other arms to be repaired and packed away.

3. *Be it further enacted*, That the superintendent of the public armory shall, under the direction and control of the executive of this commonwealth, cause the eight hundred and sixty muskets, being the residue of that parcel of muskets from which the last year's work was taken, to be repaired, repolished and repacked in secure air-proof boxes, in the first instance, and then that parcel of two thousand one hundred and fifty, reported as aforesaid to be out of order, and as being those muskets received from different parts of the state, and fit for repair.

Commencement.

4. This act shall be in force from the passing thereof.

CHAP. 28.—An ACT authorizing a volunteer company of light infantry or riflemen to be raised within the bounds of the 92d regiment of Virginia militia, and for other purposes.

[Passed April 7, 1838.]

Power to raise volunteer company in 92d regiment.

1. *Be it enacted by the general assembly*, That it shall and may be lawful to raise and enrol a volunteer company of light infantry or riflemen, to be composed of persons in each battalion of the ninety-second regiment of Virginia militia, any law to the contrary notwithstanding.

Company officers how appointed, where there are no officers to superintend elections.

2. *Be it further enacted*, That if any regiment in this commonwealth now is, or shall be dissolved, so far as to have no officer to superintend the election of officers, it shall and may be lawful for the county courts of the county in which such regiment may have been organized, to recommend to the governor, for each company therein, a suitable person to be commissioned as captain thereof, and the individual so recommended shall be commissioned by the governor in the same manner as if he had been elected, and his election certified in the manner now required by law.

Commencement.

3. This act shall be in force from its passage.

CHAP. 29.—An ACT establishing a new regiment of militia in the county of Mercer.

[Passed March 5, 1838.]

151st regiment established.

1. *Be it enacted by the general assembly*, That there shall be established in the county of Mercer, a new and distinct regiment of militia, to be known and distinguished by the name and style of the one hundred and fifty-first regiment of Virginia militia, to be composed of the militia comprised within the bounds of the aforesaid county of Mercer.

How composed.

2. *Be it further enacted*, That the said one hundred and fifty-first regiment, hereby established, shall be laid off into two battalions, to be called the first and second battalions of said regiment, and the said battalions respectively, shall be laid off and divided into convenient districts for militia company in such manner as may be deemed proper by the officers of the said regiment hereby established.

Divided into battalions and companies.

3. *Be it further enacted*, That it shall be the duty of the oldest field officer of any existing regiment whose residence is within the bounds of the said county of Mercer, and if there be no field officer therein, then it shall be the duty of the commandant of any

Time for election of field officers, how fixed.

other regiment, or the clerk of the county court of said county of Mercer, to fix upon a day for the election of the field officers of the said one hundred and fifty-first regiment hereby established, and such election shall take place accordingly, provided legal Notice. and sufficient notice of the time and place of election shall have been given by advertisement posted up at the place where the court of the said county of Mercer shall sit; and the said officer or clerk ^{Election superin-} so acting, shall superintend the said election and report the result ^{tended.} thereof to the executive.

4. *Be it further enacted,* That the commissions of all officers who reside in such parts of the one hundred and twelfth and eighty-sixth regiments, which shall be included within the new regiment hereby established, are hereby declared valid to all intents and purposes, in and for the said one hundred and fifty-first regiment. And the governor is hereby required to issue commissions to and ^{New commissions} ^{to issue.} for said officers in the same manner as if they had been duly elected officers in said new regiment under the authority of this act.

5. This act shall be in force from its passage.

<sup>Present officers to
continue such.</sup>

<sup>New commissions
to issue.</sup>

Commencement.

CHAP. 30.—An ACT establishing a new regiment in the county of Grayson.

(Passed April 3, 1838.)

1. *Be it enacted by the general assembly,* That there shall be ^{150d regiment es-} ^{tablished.} established in the county of Grayson, a new and distinct regiment of militia, to be known and distinguished by the name of the one hundred and fifty-second regiment of Virginia militia, to be composed of part of the seventy-eighth regiment of militia in said county, viz: Beginning on the Flower gap road where the North ^{Bounds of regi-} Carolina line crosses the same, and running thence with the ^{ment.} said road to the first crossing of Crooked creek, and thence down and with the meanders of the same to its mouth; thence with New river to the Wythe county line; thence with the same to the Floyd county line; thence with the same to the Patrick county line; thence with the same to the North Carolina line, and with the same to the beginning, leaving the enrolled militia of the seventy-eighth regiment in said county as they now stand, except so many of their number as shall be detached therefrom by the establishment of a new regiment within the boundaries herein described.

2. *Be it further enacted,* That the one hundred and fifty-second regiment hereby established, shall be laid off into battalions and companies, and be officered in the same manner, and under the ^{Divided into bat-} ^{talions and com-} ^{panies.} ^{How officered.} same rules and regulations as are now established by law for the regulations and government of the militia of this commonwealth.

3. *Be it further enacted,* That it shall be the duty of the oldest field officer of the seventy-eighth regiment, whose residence shall be within the boundaries of the said one hundred and fifty-second regiment hereby established, and if there be no field officer therein, then it shall be the duty of the colonel commandant of the seventy-eighth regiment to fix upon a day for the elections of the field officers of the said one hundred and fifty-second regiment hereby established, and such election shall take place accordingly, provided legal and sufficient notice of the time and place of such election shall have been given; and the said officers so acting, shall <sup>Time for election
of field officers
how fixed.</sup> ^{Notice.} ^{Election superin-} superintend the said election and report the result thereof to the ^{tended.} executive.

*Present officers to
continue such.*

*New commissions
to issue.*

Commencement.

4. Be it further enacted, That the commissions of all officers therof who reside in such part of the seventy-eighth regiment which shall be included within the new regiment hereby established, are hereby declared valid to all intents and purposes, in and for the said one hundred and fifty-second regiment; and the governor is hereby requested to issue commissions to and for said officers in the same manner as if they had been duly elected under the authority of this act officers in said new regiment.

5. This act shall be in force from and after the passage thereof.

CHAP. 31.—An ACT establishing a new regiment in the county of Kanawha.

(Passed April 6, 1838.)

*153d regiment es-
tablished.*

How composed.

*Bounds of regi-
ment.*

*Divided into bat-
talions and com-
panies*

How officered.

*Time for election
of field officers,
how fixed.*

*Notice to be
given.*

*How superintend-
ed.*

*Present officers to
continue such.*

*New commissions
to issue.*

*Commissioners to
run line between
regiments.*

Compensation.

Commencement.

1. Be it enacted by the general assembly, That there shall be established in the county of Kanawha a new and distinct regiment of militia, to be known and distinguished by the number and style of the one hundred and fifty-third regiment of Virginia militia, to be composed of part of the eighteenth regiment of militia in said county, viz: Below a straight line to be drawn north-east and south-west, which shall cross the Kanawha river at the house of Thomas Matthews, esquire, below the town of Charleston, and immediately at the foot of Elk shoals, leaving the enrolled militia of the said eighteenth regiment in said county as they now stand, except so many of their number as shall be detached therefrom by the establishment of a new regiment within the boundary herein described.

2. Be it further enacted, That the one hundred and fifty-third regiment hereby established, shall be laid off into battalions and companies, to be officered in the same manner, and under the same rules and regulations as are now established by law for the regulations and government of the militia of this commonwealth.

3. Be it further enacted, That it shall be the duty of the oldest field officer of the said eighteenth regiment, whose residence shall be within the boundaries of the said one hundred and fifty-third regiment hereby established, and if there be no field officer therein, then it shall be the duty of the colonel commandant of the said eighteenth regiment to fix upon a day for the elections of the field officers of the said one hundred and fifty-third regiment hereby established, and such elections shall take place accordingly, provided legal and sufficient notice of the time and place of election shall have been given; and the said officers so acting shall superintend the said election, and report the result thereof to the executive.

4. Be it further enacted, That the commissions of all officers who reside in such part of the said eighteenth regiment which shall be included within the new regiment hereby established, are hereby declared valid, to all intents and purposes, in and for the said new one hundred and fifty-third regiment, and the governor is hereby requested to issue commissions to and for said officers in the same manner as if they had been duly elected, under the authority of this act, officers in said new regiment.

5. Be it further enacted, That John P. Turner and Robert Blain are hereby appointed commissioners to run said line between said regiments, and shall each be entitled to the sum of three dollars per day for every day necessarily employed in said duty, to be paid out of the militia fines of the said one hundred and fifty-third regiment.

6. This act shall be in force from its passage.

CHAP. 32.—An ACT changing the line between the 75th and 130th regiments of Virginia militia.

(Passed January 23, 1838.)

1. *Be it enacted by the general assembly,* That the line as heretofore existing between the seventy-fifth and one hundred and thirtieth regiments of Virginia militia be so altered that the line between the counties of Montgomery and Floyd be made the line between said regiments.

2. *And be it further enacted,* That that portion of militia residing in the county of Montgomery who were heretofore enrolled in the one hundred and thirtieth regiment, shall hereafter be enrolled in the seventy-fifth regiment, and shall be exempt from all pains and penalties for failing to perform militia duty in the said one hundred and thirtieth regiment.

3. This act shall be in force from its passage.

Commencement.

CHAP. 33.—An ACT appointing the places of training of the officers of the 139th and 104th regiments.

(Passed March 19, 1838.)

1. *Be it enacted by the general assembly,* That the training of the officers of the one hundred and thirty-ninth regiment of Virginia militia in the county of Randolph, shall hereafter be held at the place of the regimental muster of the said regiment; the times of the said training to be appointed by the commandant of the said regiment, and the same to be conducted in the like manner as if held at the courthouse of the county.

2. *Be it further enacted,* That the training of the officers of the one hundred and fourth regiment of Virginia militia in the county of Preston, shall hereafter be held at the town of Brandonville in said county; the time of the said training to be appointed by the commandant of the said regiment, and the same to be governed and conducted in the like manner as if held at the courthouse of said county.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 34.—An ACT concerning certain volunteer companies of the fourth regiment of Virginia militia.

(Passed April 7, 1838.)

Whereas it appears to the general assembly that the colonel commanding of the fourth regiment of Virginia militia, upon the requisition of the sheriff of Ohio county, made on the fifth day of June, eighteen hundred and thirty-six, ordered into service the Wheeling guards, the City blues, and the Wheeling riflemen, three infantry companies attached to said regiment, and that said companies did continue in actual service from the fifth to the fifteenth day of August, eighteen hundred and thirty-six, in guarding the jail and protecting the persons and property of the citizens of said county, for which it is right that they should receive the usual pay of the militia when in actual service:

1. *Be it therefore enacted,* That the auditor of public accounts is hereby authorized and required to issue and deliver to the colonel of said regiment, or his order, a warrant upon the treasury for the sum of one thousand and ninety-nine dollars, payable out of any money therein not otherwise appropriated: *Provided,* That the auditor shall first take bond with good security, in the penalty of two

thousand dollars, payable to the governor or chief magistrate of this commonwealth, conditioned for the faithful distribution of the said sum of money as hereinafter directed.

How to be distributed.

2. *Be it further enacted,* That the said colonel of the said regiment shall distribute the said sum of money between the said three companies in proportion to the number of officers and privates employed in each company, and shall pay the same into the treasury of each company for the use and benefit of said companies.

Compliance.

3. This act shall be in force from the passing thereof.

CHAP. 35.—An ACT regulating the mileage of members of the general assembly, and for other purposes.

(Passed April 6, 1838.)

Mileage of members of assembly.

Distances specified.

1. *Be it enacted by the general assembly,* That the members of the senate and house of delegates shall be entitled to and receive for travelling to and from the seat of government, at the rate of four dollars for every twenty miles; the number of miles to be computed from the courthouses of the counties in which the said members respectively reside, to the seat of government, and until otherwise prescribed by law, shall be as follows: The county of Accomack two hundred and sixteen miles, Albemarle eighty miles, Alleghany two hundred, Amelia forty-seven, Amherst one hundred and thirty-six, Augusta one hundred and twenty-one, Bath one hundred and seventy-five, Bedford one hundred and forty-five, Berkeley one hundred and seventy, Botetourt one hundred and sixty-seven, Braxton three hundred and eighteen, Lewis two hundred and ninety-five, Brooke three hundred and seventy-three, Brunswick sixty-nine, Buckingham eighty, Cabell three hundred and sixty-three, Campbell one hundred and twenty, Caroline forty-four, Charles City thirty, New Kent thirty, Charlotte one hundred, Chesterfield fourteen, Clarke one hundred and forty-six, Warren one hundred and forty, Culpeper one hundred, Cumberland fifty-five, Dinwiddie forty, Elizabeth City ninety-six, Warwick eighty-one, Essex fifty, Fairfax one hundred and twenty-nine, Fauquier one hundred and seven, Fayette two hundred and eighty-five, Nicholas two hundred and eighty-five, Fluvanna fifty-nine, Floyd two hundred and twenty-five, Franklin one hundred and eighty-five, Frederiek one hundred and fifty, Giles two hundred and fifty, Mercer two hundred and seventy, Greene ninety, Gloucester eighty, Goochland twenty-eight, Grayson two hundred and eighty, Greenbrier two hundred and twenty-one, Greensville sixty-three, Halifax one hundred and thirty, Hampshire two hundred, Hanover twenty, Hardy two hundred and eighteen, Harrison two hundred and ninety-five, Henry two hundred, Isle of Wight ninety, James City sixty, York seventy-two, Williamsburg sixty, Jefferson one hundred and sixty, Kanawha three hundred and twenty-five, King & Queen forty, King George eighty-three, King William twenty-seven, Lancaster ninety, Richmond sixty, Lee four hundred and five, Logan three hundred and twenty-four, Loudoun one hundred and fifty, Louisa fifty-four, Lunenburg seventy-five, Madison one hundred, Marshall three hundred and fifty, Mathews one hundred, Middlesex eighty-three, Mason three hundred and eighty, Jackson three hundred and sixty-two, Mecklenburg one hundred and ten, Monongalia three hundred, Monroe two hundred and twenty-three, Montgomery two hundred and fifteen, Morgan one hundred eighty-six, Nansemond one hundred and

two, Nelson one hundred and ten, Norfolk borough one hundred and sixteen, Norfolk county one hundred and sixteen, Northampton one hundred and seventy-four, Northumberland eighty-five, Notto-way sixty, Ohio three hundred and fifty-seven, Orange eighty, Page one hundred and forty, Patrick two hundred and thirty-five, Pendleton one hundred and seventy, Petersburg twenty-two, Pennsylvania one hundred and sixty, Pocahontas two hundred, Powhatan thirty-two, Preston two hundred and seventy, Prince Edward eighty, Princess Anne one hundred and thirty-seven, Prince George thirty, Prince William one hundred and two, Randolph two hundred and forty-five, Rappahannock one hundred and twenty-five, Rockbridge one hundred and fifty-six, Rockingham one hundred and thirty, Russell three hundred and thirty-two, Scott three hundred and seventy, Shenandoah one hundred and sixty, Smyth two hundred and eighty-six, Southampton seventy-five, Spotsylvania seventy, Stafford seventy-three, Surry sixty-seven, Sussex fifty, Tazewell three hundred, Tyler three hundred and thirty-seven, Washington three hundred and nine, Westmoreland seventy, Wood three hundred and seventy, and Wythe two hundred and fifty-seven miles. And when any member shall reside nearer to or further from the city of Richmond than the courthouse of his county may be, he shall state to the clerk of the house of which he is a member, the true difference between such distances, and the same shall be added to or deducted from the mileage hereinbefore mentioned, as the case may be.

2. *Be it further enacted*, That whenever the general assembly shall be required to meet at, or shall adjourn to any other place than the seat of government, the mileage allowed said members shall be computed from the respective courthouses in the counties in which they reside, to the place at which they are so required, or shall have been adjourned to meet, according to the nearest ascertained mail route between the points so designated.

3. *Be it further enacted*, That whenever hereafter new counties shall be created, the mileage allowed the member representing said county, or election district to which said county is attached, shall be computed in the manner prescribed in the second section of this act.

4. *Be it further enacted*, That the sum so allowed for mileage, ^{Ferriages, tolls, &c. disallowed.} shall be considered as including all ferriages, tolls and other charges, and no other or greater sum shall be allowed or received than is herein specified or provided for.

5. *Be it further enacted*, That in the allowance of mileage to ^{Mileage of judges and other officers.} the judges of the general court, for travelling to that court, and in all other cases in which it may be lawful to allow mileage to any other person for travelling or conveying prisoners to the city of Richmond, the auditor shall be governed by the distances herein prescribed for the allowance of mileage to the members of the general assembly.

6. This act shall be in force from the passage thereof.

Commencement.

CHAP. 36.—An ACT to amend an act, entitled, “an act concerning general elections in this commonwealth.”

(Passed March 19, 1838.)

1. *Be it enacted by the general assembly*, That the sheriff or ^{Who to qualify} ~~de-~~ ^{superintendents of} ~~puty~~ ^{of} sheriff appointed to conduct a separate election in any county ^{selections.} of this commonwealth shall be, and he is hereby authorized to ad-

minister the oath or affirmation prescribed by law to the superintendents or commissioners appointed to superintend such separate election before they enter upon the duties enjoined upon them by law."

Penalty on returning officers for withholding polls.

2. *Be it further enacted*, That if any sheriff, deputy sheriff, mayor, recorder or other returning officer of elections designated in an act, entitled, "an act concerning general elections in this commonwealth," passed April second, eighteen hundred and thirty-one, shall wilfully and corruptly withhold the polls which he is required by law to return in any election which may be hereafter held in this commonwealth, in addition to the penalty imposed by the fifty-seventh section of the act aforesaid, shall be guilty of a misdemeanor, punishable by fine not less than five hundred dollars, and by imprisonment not less than six months, to be ascertained by a jury in a prosecution by information or indictment to be instituted in any court of record in the county of which the polls or any part thereof are so withheld.

Commencement.

3. This act shall be in force from its passage.

CHAP. 37.—An ACT to authorize two separate elections in the county of Amelia.

(Passed March 8, 1838.)

Separate elections in Amelia.

1. *Be it enacted by the general assembly*, That whenever hereafter an election shall be holden in the county of Amelia, in which all the lawful voters of the county are required to vote, there shall be at the same time a separate poll opened for such election at the old tavern house owned by John T. Jeter, at Painville, in the upper end of said county; and also, there shall be at the same time one other poll opened for such election at the tavern house of doctor Benjamin C. Jones, at the place known as the Cross Roads, in the lower end of said county.

Rules and regulations.

2. *Be it further enacted*, That the said separate polls shall be conducted according to, and all persons concerned therein governed by, the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the 120; acts 1832-3, p. 27; 1833 4, p. 59; 1834 5, p. 26; 1836 7, p. 23; *ante*, ch. 36.

Sup. Code, pp. 98, 120; acts 1832-3, p. 27; 1833 4, p. 59; 1834 5, p. 26; 1836 7, p. 23; *ante*, ch. 36. second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

Commencement.

3. This act shall be in force from its passage.

CHAP. 38.—An ACT to change the place of holding a separate election in the county of Fauquier.

(Passed April 3, 1838.)

Separate election in Fauquier changed.

1. *Be it enacted by the general assembly*, That the separate poll authorized to be holden at the house now the residence of J. W. Bronaugh, in the town of Upperville, in the county of Fauquier, shall hereafter be holden at the house now occupied by Mrs. Catlett as a tavern in said town; and should said house hereafter be occupied as a private residence, then the said separate poll shall be holden at such other house in said town as the commissioners appointed to superintend the election shall designate, at least ten days previous to any election.

Rules and regulations.

2. *Be it further enacted*, That the said separate poll, the place of holding which is so changed, shall be conducted as heretofore

prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

3. This act shall be in force from the passing thereof.

^{Sup. Code, pp. 98-120; acts 1832-3, p. 27; 1833-4, p. 59; 1834-5, p. 26; 1836-7, p. 23; ante, ch. 36.}
Commencement.

CHAP. 39.—An ACT to change the place of holding a separate election in the county of Giles.

(Passed February 8, 1838.)

1. *Be it enacted by the general assembly,* That the separate poll ^{in Giles changed.} now authorized to be holden at the house of John and Joseph Kirk, on Walker's creek in the county of Giles, shall hereafter be holden at the house of George D. Hoge, in the town of Mechanicksburg in said county.

2. *Be it further enacted,* That the said separate poll shall be ^{Rules and regulations.} conducted according to, and all persons concerned therein governed by, the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the ^{Sup. Code, pp. 98-120; acts 1832-3, p. 27; 1833-4, p. 59; 1834-5, p. 26; 1836-7, p. 23; ante, ch. 36.} second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

3. This act shall be in force from and after the passing thereof. Commencement.

CHAP. 40.—An ACT to authorize a separate election at Glenn's, in the county of Gloucester.

(Passed April 4, 1838.)

1. *Be it enacted by the general assembly,* That whenever here- ^{Separate election established in Gloucester.} after an election shall be holden in the county of Gloucester, in which all the lawful voters of the county are required to vote, there shall be at the same time a separate poll opened for such election at the place called Glenn's, in the house now occupied as a storehouse by Robert C. Owen, in said county.

2. *Be it further enacted,* That the said separate poll shall be ^{Rules and regulations.} conducted according to, and all persons concerned therein governed by, the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the ^{Sup. Code, pp. 98-120; acts 1832-3, p. 27; 1833-4, p. 59; 1834-5, p. 26; 1836-7, p. 23; ante, ch. 36.} second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

3. This act shall be in force from its passage.

Commencement.

CHAP. 41.—An ACT to authorize a separate election at Frankfort in the county of Greenbrier.

(Passed February 21, 1838.)

1. *Be it enacted by the general assembly,* That whenever here- ^{Separate election in Greenbrier es-tablished.} after an election shall be holden in the county of Greenbrier, in which all the lawful voters of the county are required to vote, there shall be, at the same time, a separate poll opened for such election, at the tavern house of Joseph W. Piernell, situate in the town of Frankfort in said county.

2. *Be it further enacted,* That the said separate poll shall be ^{Rules and regulations.} conducted according to, and all persons concerned therein governed by, the rules and regulations prescribed by the act, entitled, "an ^{Sup. Code, pp. 98-120; acts 1832-3, p. 27; 1833-4, p.} act concerning general elections in this commonwealth," passed the

59; 1834-5, p. 26; second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

Commencement. 3. This act shall be in force from the passing thereof.

CHAP. 42.—An ACT to authorize a separate election at the house of William Bennett in the county of Lewis.

(Passed March 28, 1838.)

Separate election in Lewis county established.

1. *Be it enacted by the general assembly,* That whenever hereafter an election shall be holden in the county of Lewis, in which all the lawful voters of the county are required to vote, there shall be, at the same time, a separate poll opened for such election at the house now the residence of William Bennett, situate in that part of said county known as Collins's Settlement.

2. *Be it further enacted,* That the said separate poll shall be conducted according to, and all persons concerned therein governed by, the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the

Sup. Code, pp. 98.
1830; acts 1833 3,
p. 27; 1833 4, p.
59; 1834-5, p. 26;
1836 7, p. 23; *ante*,
ch. 36.

second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning elections in this commonwealth.

Commencement. 3. This act shall be in force from the passing thereof.

CHAP. 43.—An ACT to authorize a separate election at Snickersville in the county of Loudoun.

(Passed February 14, 1838.)

Separate election established in Loudoun.

1. *Be it enacted by the general assembly,* That whenever hereafter an election shall be holden in the county of Loudoun, in which all the lawful voters of the county are required to vote, there shall be, at the same time, a separate poll opened for such election at the tavern house now occupied by Alfred Glascock in the town of Snickersville, or such other house in said town as may be designated by the commissioners appointed to superintend the election.

2. *Be it further enacted,* That the said separate poll shall be conducted according to, and all persons concerned therein governed by, the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the
Sup. Code, pp. 98.
1830; acts 1833 3,
p. 27; 1833 4, p.
59; 1834-5, p. 26;
1836 7, p. 23; *ante*,
ch. 36.

second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

Commencement. 3. This act shall be in force from and after the passing thereof.

CHAP. 44.—An ACT to amend certain acts establishing separate elections in the towns of Waterford and Middleburg in the county of Loudoun.

(Passed March 7, 1838.)

Separate election in Waterford in Loudoun changed.

1. *Be it enacted by the general assembly,* That the separate poll authorized to be holden at the house of Lewis Kline in the town of Waterford in the county of Loudoun, by the act, entitled, "an act to authorize a separate election in the town of Waterford in the county of Loudoun," passed March the twelfth, eighteen hundred and thirty-four, shall hereafter be holden at the house now the residence of Mrs. Paxton, in the said town of Waterford, and in the event of said house being destroyed, uninhabited, or the occupant unwilling to allow the election to be held thereat, then at

such other house in said town as the commissioners appointed to superintend the election shall designate, and notify, at least ten days previous to any election, if such difficulty, objection or cause, be so soon known to them, otherwise on the day of election.

2. Be it further enacted. That the separate poll authorized to be holden at the house of Thomas I. Nowland in the town of Middleburg in the said county, by the act, entitled, "an act to authorize a separate election at Middleburg in the county of Loudoun, and one at the store-house of William H. Plunket in the county of Amherst," passed March the twenty-ninth, eighteen hundred and thirty-seven, shall hereafter be holden at the house now the residence of Thomas I. Nowland in the said town of Middleburg; and in the event of said house being destroyed, uninhabited, or the occupant unwilling to allow the election to be held thereat, then as is provided in the section next before.

3. Be it further enacted, That the said separate polls, the place of holding which is so changed, shall be conducted as heretofore prescribed, and all persons concerned therein, governed by the rules and regulations contained in the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

4. This act shall be in force from its passage.

Election in Middleburg changed.

CHAP. 45.—An ACT to change the place of holding a separate election in the county of Marshall.

(Passed April 5, 1838.)

1. Be it enacted by the general assembly, That the separate poll authorized to be holden at the house of Joseph Alexander, (now occupied by _____ White,) on Big Wheeling creek, in the county of Marshall, by the act, entitled, "an act to change the place of holding a separate election in the county of Marshall," passed January the sixth, eighteen hundred and thirty-six, shall hereafter be holden at the school house, known as the Sand Hill school house, in said county.

Sup. Code, pp. 98-
120; acts 1832-3,
p. 27; 1833-4, p.
59; 1834 5, p. 26;
1836-7, p. 23; and
ch. 36.

2. Be it further enacted, That the said separate poll, the place of holding which is so changed, shall be conducted as heretofore prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts, concerning general elections in this commonwealth.

3. This act shall be in force from the passing thereof.

Separate election
in Marshall
changed.

Sup. Code, pp. 98-
120; acts 1832-3,
p. 27; 1833-4, p.
59; 1834 5, p. 26;
1836-7, p. 23; and
ch. 36.

Commencement.

CHAP. 46.—An ACT to change the place of holding a separate election in the county of Mason.

(Passed March 6, 1838.)

1. Be it enacted by the general assembly, That the separate poll authorized to be holden at the house of Henry Harvey in the county of Mason, by the act, entitled, "an act to change the place of holding a separate election in the county of Halifax, and to establish a separate election in the county of Mason," passed January the twenty-second, eighteen hundred and thirty, shall hereafter be holden at the store house now occupied by Atkinson and company in the village of Buffaloe, about one mile further up the Kanawha river.

Separate election
in Mason county
changed.

Rules and regulations. **2. Be it further enacted,** That the said separate poll, the place of holding which is so changed, shall be conducted as heretofore prescribed, and all persons concerned therein governed by the rules and regulations contained in the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

Commencement. **3. This act shall be in force from its passage.**

CHAP. 47.—An ACT to authorize a separate election in the county of Mason.

(Passed March 9, 1838.)

Separate election established in Mason. **1. Be it enacted by the general assembly,** That whenever hereafter an election shall be held in the county of Mason, in which all the lawful voters of the county are required to vote, there shall be at the same time a separate poll opened for such election, at the house now the residence of Adam Fisher, situate in the Upper flats in said county.

Rules and regulations. **2. Be it further enacted,** That the said separate poll shall be conducted according to, and all persons concerned therein, governed by the rules and regulations prescribed by the act, entitled "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

Commencement. **3. This act shall be in force from its passage.**

CHAP. 48.—An ACT to discontinue the separate election at the house of Reuben French in the county of Mercer.

(Passed February 8, 1838.)

Separate election in Mercer discontinued. **1. Be it enacted by the general assembly,** That the eighth section of the act, entitled, "an act authorizing separate elections in the counties of Patrick, Giles, Nicholas and Monroe," passed January the twenty-third, eighteen hundred and twenty-two, and thereby fixing a separate election at the house of Reuben French in the county of Giles, (now Mercer,) shall be, and the same is hereby repealed.

Commencement. **2. This act shall be in force from and after the passing thereof.**

CHAP. 49.—An ACT to authorize a separate election at Sandy bottom in the county of Middlesex.

(Passed March 7, 1838.)

Separate election in Middlesex established. **1. Be it enacted by the general assembly,** That whenever hereafter an election shall be held in the county of Middlesex, in which all the lawful voters of the county are required to vote, there shall be at the same time, a separate poll opened for such election at the house now the residence of Lewis L. Stiff, at the place called "Sandy Bottom" in said county.

Rules and regulations. **2. Be it further enacted,** That the said separate poll shall be conducted according to, and all persons concerned therein governed by the rules and regulations prescribed by the act, entitled "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

Commencement. **3. This act shall be in force from and after the passing thereof.**

CHAP. 50.—An ACT to authorize a separate election at the house of Frances Barham in the county of New Kent,

[Passed March 13, 1838.]

1. *Be it enacted by the general assembly,* That whenever hereafter an election shall be helden in the county of New Kent, in which all the lawful voters of the county are required to vote, there shall be at the same time a separate poll opened for such election at the house now the residence of Frances Barham, in said county.

2. *Be it further enacted,* That the said separate poll shall be conducted according to, and all persons concerned therein governed by the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

3. This act shall be in force from its passage.

Commencement.

Sup. Code, pp. 99-120; acts 1832 ch. 3, p. 27; 1833-4, p. 59; 1834-5, p. 26; 1836-7, p. 22; etc.

CHAP. 51.—An ACT to change the place of holding a separate election in the county of Patrick.

[Passed March 23, 1838.]

1. *Be it enacted by the general assembly,* That the separate poll authorized to be helden at the house of Lewis Turner, in the county of Patrick, by the act, entitled, "an act authorizing separate elections in the counties of Patrick, Giles, Nicholas and Monroe," passed January the twenty-third, eighteen hundred and twenty-two, shall hereafter be helden at the house now occupied by John P. Carter as a storehouse, about half a mile from the said house of Lewis Turner.

2. *Be it further enacted,* That the said separate poll (the place of holding which is so changed) shall be conducted as heretofore prescribed, and all persons concerned therein governed by the rules and regulations contained in the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 52.—An ACT to authorize a separate election at the house of John M'Corkle in the county of Rockbridge.

[Passed April 3, 1838.]

1. *Be it enacted by the general assembly,* That whenever hereafter there shall be an election helden in the county of Rockbridge, in which all the lawful voters of the county are required to vote, there shall be, at the same time, a separate poll opened for such election at the house now occupied as a tavern house by John M'Corkle in said county.

2. *Be it further enacted,* That the said separate poll shall be conducted according to, and all persons concerned therein governed by, the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

3. This act shall be in force from the passing thereof.

Commencement.

Separate Elections.

CHAP. 53.—An ACT to change the place of holding a separate election in the county of Rockingham, and one in the county of Goochland.

(Passed March 26, 1838.)

Separate election
in Rockingham
changed.

1. *Be it enacted by the general assembly,* That the separate poll authorized to be holden at the house known by the name of Riddle's tavern, in the county of Rockingham, by the act, entitled, "an act authorizing a separate election on the east side of the North mountain in the county of Rockingham," passed January the thirty-first, eighteen hundred and twenty-seven, shall hereafter be holden at the house now occupied as a store house by Samuel Cootes, in said county.

In Goochland,
changed.

2. *Be it further enacted,* That the separate poll authorized to be holden at the house of James Wenton, in the lower end of the county of Goochland, by the act, entitled, "an act to authorize a separate election at the place called the Little Store, in the county of Goochland," passed February the first, eighteen hundred and thirty-two, shall hereafter be holden at the house now the residence of Thomas Taylor, situate in the Three Chopped road, in said county, about one mile distant from said Little Store.

Rules and regula-
tions.

3. *Be it further enacted,* That the said separate polls, the places of holding which are so changed, shall be conducted as heretofore prescribed, and all persons concerned therein, governed by the rules and regulations contained in the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

Commencement.

4. This act shall be in force from its passage.

CHAP 54.—An ACT to establish separate elections in the counties of Culpeper, York and Rockingham.

(Passed April 6, 1838.)

Separate election
in Culpeper estab-
lished.

1. *Be it enacted by the general assembly,* That whenever hereafter an election shall be holden in the county of Culpeper, in which all the lawful voters of the county are required to vote, there shall be at the same time, a separate poll opened for such election at the tavern house now occupied by Samuel H. Stout in the town of Stevensburg in said county.

In York.

2. *Be it further enacted,* That whenever hereafter an election shall be holden in the county of York, in which all the lawful voters of the county are required to vote, there shall be at the same time a separate poll opened for such election at the house commonly called the Hampton half-way house in said county.

In Rockingham.

3. *Be it further enacted,* That whenever hereafter an election shall be holden in the county of Rockingham, in which all the lawful voters of the county are required to vote, there shall be at the same time a separate poll opened for such election at the house now occupied as a store house by Ptolemy Brightwell, situate on Beaver creek in said county.

Rules and regula-
tions.

Sup. Code, pp. 98.
190; acts 1832 3,
p. 27; 1833 4, p.
59; 1834 5, p. 98;
1836 7, p. 23; ante,
ch. 36.

4. *Be it further enacted,* That the said separate polls shall be conducted according to, and all persons concerned therein governed by the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

Commencement.

5. This act shall be in force from its passage.

CHAP. 55.—An ACT to authorize a separate election at New Market in the county of Spotsylvania.

(Passed January 23, 1838.)

1. *Be it enacted by the general assembly,* That whenever hereafter an election shall be held in the county of Spotsylvania, in which all the lawful voters of the county are required to vote, there shall be at the same time a separate poll opened for such election at the house now the residence of Launcelot Parlow, at the place known as New Market in the said county.

2. *Be it further enacted,* That the said separate poll shall be conducted according to, and all persons concerned therein governed by the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

3. This act shall be in force from and after the passing thereof. Commencement.

CHAP. 56.—An ACT to authorize a separate election at the house of Martin Miller & Sons in the county of Wythe.

(Passed January 24, 1838.)

1. *Be it enacted by the general assembly,* That whenever hereafter an election shall be held in the county of Wythe, in which all the lawful voters of the county are required to vote, there shall be at the same time a separate poll opened for such election at the house now occupied by Martin Miller & Sons, situated in the southwestern part of said county.

2. *Be it further enacted,* That the said separate poll shall be conducted according to, and all persons concerned therein governed by the rules and regulations prescribed by the act, entitled, "an act concerning general elections in this commonwealth," passed the second day of April, eighteen hundred and thirty-one, and all subsequent acts and parts of acts concerning general elections in this commonwealth.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 57.—An ACT concerning Giles and Mercer counties.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That when hereafter an election shall be held for a delegate to represent the election district composed of the counties of Giles and Mercer, the sheriffs or other officers conducting the said election, shall meet at the courthouse of Giles county to compare the polls taken by them respectively; and they shall be governed in all respects and perform all the duties required of such officers by the fifteenth section of the act, entitled, "an act concerning general elections in this commonwealth."

2. This act shall be in force from its passage.

Commencement.

CHAP. 58.—An ACT concerning the formation of new counties.

(Passed April 7, 1838.)

1. *Be it enacted by the general assembly,* That when hereafter it shall be the intention of any person or persons to petition the legislature for the formation of a new county out of a part of any

Notice of intention to petition for new county required.

county or counties in this commonwealth, it shall be the duty of such person or persons to publish their intention by advertisement stuck up at the front door or doors of the courthouse or courthouses of the county or counties from which the new county is intended to be formed, for at least two months next preceding the annual election of delegates to the general assembly, distinctly describing in said advertisement, the lines by which it is intended the new county shall be bounded, and the site for the seat of justice for said county.

Polls to be opened
to ascertain sense
of people.

2. Be it further enacted, That if at the ensuing annual election for delegates, it shall satisfactorily appear to the officer or officers conducting the election at the courthouse or courthouses of the said county or counties, that the provisions of the preceding section have been fully complied with, it shall be the duty of such officer or officers to open a poll for and against the formation of the new county, with two columns ruled thereon, one of which shall be headed "for the new county," the other "against the new county;"

Who permitted to
vote.

and the votes of all the legally qualified voters and housekeepers, and all citizens of twenty-one years and upwards, who are assessed with a county levy, and paid the same before voting, residing within the limits of the described boundary, who may offer to vote, shall be taken, whose names shall be entered in one or the other of said

Polls to be return-
ed to clerks of
courts.

columns, as the voter may direct; and the officer or officers taking such poll or polls shall certify the same to the clerk or clerks of the county or counties within which such votes are taken, at the same time that he or they are required to certify the election of the delegate or delegates, whose duty it shall be to forward to the clerk of the house of delegates a true copy of such poll, at least ten days before the commencement of the next general assembly:

Provided however, That this act shall not affect the right to petition to the next legislature for any new county, in the same manner and under the same regulations as if this act had never passed.

Commencement.

3. This act shall be in force from its passage.

CHAP. 59.—An ACT forming a new county out of the county of Orange.

(Passed January 24, 1838.)

Greene county
created.

1. Be it enacted by the general assembly, That so much of the county of Orange as lies next to, and adjoining the counties of Madison, Rockingham and Albemarle, and west of a line beginning at Cave's old mill, (now the property of James Jackson,) on the Madison county line, and running thence a straight line to where Whitelaw's mill run intersects the Albemarle county line, shall form one distinct and new county, and be called and known by the name of Greene county, in memory of general Nathaniel Greene, who served his country in the revolutionary war.

Commissions to
justices.

2. The governor, with the advice of the council of state, shall commission sixteen persons as justices of the peace in and for the said county of Greene, and the justices now in commission residing in that part of Orange county which will be in Greene county after the commencement of this act, shall be of said number, and shall be commissioned in point of seniority, according to the date of their present commissions, all of whom shall, before entering upon and executing the duties of said office, take the several oaths now required by law of persons commissioned as justices of the peace, which oaths may be administered by any justice of the peace now

Their oaths.

in commission, for either of the counties of Orange, Madison, or Albemarle.

3. A court for the said county of Greene, shall be holden by the Monthly courts. justices thereof on the Thursday after the second Monday in every month after the same shall have been organized, in like manner as is provided by law for other counties, and shall be by their commissions directed.

4. In order the more impartially and correctly to ascertain the Place for holding most proper place for holding courts and erecting public buildings <sup>courts how select-
ed.</sup> for the said county of Greene, Thomas Durrett of the county of Albemarle, Jacob Conrad of the county of Rockingham, and Linn Banks of the county of Madison, gentlemen, shall be, and they are hereby appointed commissioners, any two of whom may act, for the purpose aforesaid, whose duty it shall be, after having performed the services hereby required, to make report thereof in writing to the court of said county of Greene; whereupon, they, the said court, <sup>Public buildings
to be erected.</sup> shall proceed to cause the necessary public buildings to be erected at the place so fixed upon as the site for the same, by the said commissioners, or any two of them, which (when the buildings are completed) shall be the permanent place for holding courts for the said county of Greene.

5. The justices of the peace, commissioned and qualified as first court where and when to be held. aforesaid, for the said county of Greene, shall meet at the house (now the residence of Robert Pritchett in Stanardsville) in said county, or such other house in said place as they may agree upon after having met, on the Thursday after the second Monday in April next, and a majority of them being present, shall proceed to Clerk to be ap- the appointment of a clerk of the said court, shall nominate to the ^{pointed.} Sheriff and coro- governor suitable persons to be commissioned as sheriff and coro- ner of the said county until the necessary buildings shall be constructed (or so far in progress as to be fit for the use of a court) at the place designated by the said commissioners.

6. It shall be lawful for the sheriff of the county of Orange to Who to collect collect and make distress for any public dues or officers' fees which ^{public dues.} shall remain unpaid by the inhabitants of the county of Greene at the time when this act shall commence and be in force, and shall be accountable for the same in like manner as if this act had never been passed.

7. The courts of the county of Orange shall have jurisdiction ^{Jurisdiction of courts.} of all actions and suits depending before them on the fourth Mon- day in March next, and shall try and determine the same, and award execution thereon.

8. The said county of Greene shall be in and attached to the Judicial circuit. same judicial circuit with the county of Orange; and the circuit <sup>Circuit courts,
when.</sup> superior courts of law and chancery thereof, shall be holden on the third Monday of June, and on the third Monday of November, in every year; and be of the same brigade district with the county of Brigade district. Orange.

9. The said county of Greene shall belong to the same senatorial, congressional and electoral districts as the county of Orange. Senatorial, con- gressional and electoral districts.

10. The said county of Greene, and the county of Orange, shall ^{Representation to legislature.} together send one delegate to the house of delegates in the general assembly of Virginia, until a future re-apportionment of representation shall take place.

Quarterly courts.

11. The courts of quarterly sessions for the said county of Greene, shall be holden in the months of March, June, August and November, in every year.

Commissioners to run the dividing lines.

12. Robert U. Brooking of the county of Orange, Wesley Fry and John Booten of the county of Madison, John Fray and Ira Brown of the county of Albemarle, are hereby appointed commissioners to run and mark the line between the said counties of Orange and Greene, as designated by this act, a majority of whom may act, which, when run and marked, shall be taken and considered as the dividing line between the said counties; and the said commissioners are hereby required to make report of their proceedings in writing to the county courts of Orange and Greene, respectively, which reports shall be recorded in the clerk's office of each of said counties, and in all controversies which may hereafter arise touching said line, shall be conclusive evidence. The county court of Greene shall allow the said commissioners the sum of four dollars per day, as a compensation for their services, to be paid out of the county levy of said county.

Report required to be recorded.

Their compensation.

Compensation to commissioners for fixing site of buildings.

13. The commissioners appointed by this act to designate and fix the site of the public buildings of the said county of Greene, shall each be allowed and paid the sum of four dollars for every day that they shall be actually engaged in the duties aforesaid, to be provided for and paid out of the county levy of the said county of Greene.

Commencement.

14. This act shall commence and be in force from and after the passing thereof.

CHAP. 60.—An ACT establishing the county of Roanoke.

[Passed March 30, 1858.]

Roanoke county created.

1. *Be it enacted by the general assembly,* That all that part of the county of Botetourt lying next to and adjoining the counties of Montgomery, Franklin and Bedford, in the south-western part thereof, and contained within the following boundary lines, to wit: beginning at a point on the Blue ridge, in the line which divides the counties of Bedford and Botetourt, thence north-west to the house now the residence of John Bonsack, on Glade creek, so as to include the said Bonsack in the new county, thence a line to the house of Thomas Barnes, including said Barnes in the new county, and so as to leave John W. Thompson in the county of Botetourt, thence a straight line crossing the Catawba valley at a point one mile due north of Mrs. Garwood's, thence crossing Craig's creek, (passing the house of John Spessard on Craig's creek, so as to leave the said Spessard in the old county) to the top of the mountain which divides the waters of Craig's creek and Sinking creek, thence westwardly along the top of the mountain to the point where the lines of Botetourt, Montgomery and Giles counties meet, thence with the line which divides the county of Botetourt from the county of Montgomery, to the point at which said line joins the line of Franklin county, thence with the Franklin and Botetourt line to the point at which said line joins the Bedford line, thence with the Bedford line to the beginning, shall form one distinct and new county, and be called and known by the name of Roanoke county.

Commissions to justices.

2. The governor shall commission eighteen persons as justices of the peace, in and for the said county of Roanoke, and the justices

now in commission, residing in that part of Botetourt county which will be in Roanoke county, after the commencement of this act, shall be of the number, and shall be commissioned in point of seniority, according to the date of their present commissions; all of whom shall, before entering upon and executing the duties of said office, take the several oaths now required by law of persons commissioned as justices of the peace, which oaths may be administered by any justice of the peace now in commission, for either of the counties of Botetourt or Montgomery.

3. A court for the said county of Roanoke, shall be held by the justices thereof, on the Thursday after the third Monday in every month, after the same shall have been organized, in like manner as is provided by law for other counties, and shall be by their commissions directed.

4. And in order the more impartially and correctly to ascertain the most proper place for holding courts, and erecting public buildings for the said county of Roanoke, Albert G. Pendleton of the county of Giles, Hamilton Wade of the county of Montgomery, Samuel M'Camant of the county of Grayson, Daniel Smith of the county of Kanawha, and William Campbell, sen. of the county of Bedford, gentlemen, shall be and they are hereby appointed commissioners, a majority of whom may act, for the purpose aforesaid, and who are hereby required to meet in the town of Salem, in the now county of Botetourt, on the tenth day of May next, ensuing the passage of this act, or within sixty days from and after that day, and within ten days after their meeting, ascertain and determine at what point or place within said county it is most suitable and proper to erect a courthouse and such other necessary public buildings and fixtures, as the convenience of the county requires, under the existing laws for holding courts, and conducting business incident thereto; and shall lay off in the most convenient form, a lot or lots of land for that purpose, not exceeding in quantity two acres, and shall ascertain the value thereof; whereupon the said commissioners, or a majority of them acting in this behalf, shall make their report in writing to the county court of the county of Roanoke of the manner in which they shall have executed the duties required by this act, and of their proceedings in relation thereto, designating the point or place agreed upon, the value of the lot or lots of land, name or names of the owners thereof. And the place so ascertained and determined upon by the said commissioners, or a majority of them, shall be deemed and taken as a permanent place for holding the courts now required by law to be holden for the several counties of this commonwealth. And the court for the county of Roanoke shall thereupon provide for the payment of the valuation of said lot or lots of land so ascertained in the manner now required by law, where land shall not be already provided and appropriated for that purpose.

5. The justices of the peace commissioned and qualified as aforesaid for the said county of Roanoke, shall meet at the house now the residence of Benjamin Faris, in the town of Salem, in said county, on the third Monday in May next, and a majority of them being present, shall proceed to the appointment of a clerk of the said court, shall nominate to the governor suitable persons to be commissioned as sheriff and coroner of the said county, and fix upon a place in said town for holding the courts of said county, until for courts.

Commissioners to select place for courthouse.

Their duty.

Courts to provide for paying for property.

First court, when and where to be holden.

Clerk to be appointed. Sheriff and coroner.

Temporary place for courts.

Who to collect public dues.

the necessary buildings shall be constructed on the site designated by the commissioners aforesaid.

Jurisdiction of courts.

6. It shall be lawful for the sheriff of the county of Botetourt to collect and make distress for any public dues or officers' fees which shall remain unpaid by the inhabitants of the county of Roanoke at the time when this act shall commence and be in force, and shall be accountable for the same in like manner as if this act had never been passed.

Judicial circuit. Circuit courts, when.

7. The courts of the county of Botetourt shall have jurisdiction of all actions and suits depending before them on the second Monday in May next, and shall try and determine the same and award execution thereon, except in cases wherein both parties reside within the new county, which, together with the papers shall after that day be removed to the courts of the county of Roanoke, and there tried and determined.

Brigade district.

8. The said county of Roanoke shall be in and attached to the same judicial circuit with the county of Botetourt, and the circuit superior courts of law and chancery thereof shall be holden on the twenty-fifth of March and on the twenty-fifth of August in every year, and be of the same brigade district with the county of Botetourt.

Senatorial, congressional and electoral districts.

9. The said county of Roanoke shall belong to the same senatorial, congressional and electoral districts as the county of Botetourt.

Representation in the legislature.

10. The said county of Roanoke and the county of Botetourt shall hereafter each send one delegate to the house of delegates in the general assembly of Virginia, until a re-apportionment of representation shall take place: *Provided however,* That the two delegates elected at the next general election to be holden for the county of Botetourt, to represent the said county in the next general assembly, shall represent both the counties of Botetourt and Roanoke at the next annual session thereof.

Quarterly courts.

11. The courts of quarterly sessions of the said county of Roanoke shall be holden in the months of March, June, August and November in every year.

Commissioners to run dividing lines.

12. *Be it further enacted,* That William Anderson of the county of Botetourt, Archibald Goody Kounts of the county of Montgomery, John F. J. White of the now county of Botetourt, are hereby appointed commissioners to run and mark the lines between the said counties of Botetourt and Roanoke, as designated by this act, which when run and marked, shall be taken and considered as the dividing lines between the said counties of Botetourt and Roanoke; and the said commissioners are hereby required to make report of their proceedings in writing to the county courts of Botetourt and Roanoke counties respectively, which reports shall be recorded in the clerk's office in each of said counties, and in all controversies which may hereafter arise, touching said lines, shall be conclusive evidence. The said county courts of Botetourt and Roanoke shall allow the said commissioners a reasonable compensation for their services, to be paid out of the county levy of each of said counties respectively, in equal proportions.

Report required; to be recorded.

13. The commissioners appointed by this act to designate and fix upon the site for the public buildings in the said county of Roanoke, shall each be allowed and paid the sum of four dollars for every day they shall be actually engaged in the duties aforesaid, to be

Their compensation.

Compensation to commissioners for fixing site for buildings.

provided for and paid out of the county levy of the said county of Roanoke.

14. *And be it further enacted,* That all separate elections here-^{Separate elec-}
tofore authorized to be holden in the county of Botetourt, and fall-
ing within the county of Roanoke, shall be conducted for the said
county of Roanoke in like manner as heretofore for the county of
Botetourt.

15. This act shall commence and be in force from and after the Commencement.
first day of May next.

CHAP. 61.—An ACT to amend an act, entitled, “an act to ascertain and establish the lines which separate the county of Albemarle from the counties of Fluvanna and Louisa,” passed March 2d, 1837.

(Passed March 27, 1838.)

Whereas by an act passed March the second, eighteen hundred Preamble.
and thirty-seven, entitled, “an act to ascertain and establish the
lines which separate the county of Albemarle from the counties of
Fluvanna and Louisa,” a certain number of commissioners were
appointed to discharge collectively the duties therein specified, and
from the difficulty of securing their attendance, it has become ne-
cessary to increase the number, and empower fewer than the whole
to fulfil the provisions of the said act: Therefore,

1. *Be it enacted by the general assembly,* That James Magruder and Reuben H. Boston of the county of Fluvanna, be, and they are hereby added to the number of commissioners under the said act, Additional com-
with the same powers as if originally named in the said commis-
sion; and that in case of the death, removal, refusal or other dis-
ability to act of any of the commissioners previously or herein ap-
pointed, it shall be lawful for any three of them, so that there be
one commissioner from each of the said counties, and they are hereby required to carry into effect the provisions of the said act, in as full a manner as the whole number of commissioners were originally authorized to do. Vacancies sup-
plied.

2. This act shall be in force from and after the passing thereof. Commencement.

CHAP. 62.—An ACT to add a part of the county of Randolph to the county of Preston.

(Passed April 4, 1838.)

Whereas by the act, entitled, “an act adding a part of the Preamble.
county of Randolph to the county of Preston,” passed February
the twenty-ninth, eighteen hundred and twenty-eight, the extreme
north-east corner of the county of Randolph was added to the
county of Preston, for the purpose of relieving the inhabitants
thereof from the inconvenience of travelling a considerable dis-
tance to their courthouse, and places of muster, and separate elections;
and when the line described in said act was run, sundry in-
habitants equally inconveniently situated with those included in the
part so added, were, contrary to expectation, excluded, although
they were at that time, as now, petitioners for the change: There-
fore,

1. *Be it enacted by the general assembly,* That so much of the Part of Randolph
county of Randolph as lies next to, and adjoining the county of ^{added to Preston.}
Preston, and contained within the following boundaries, to wit:
Beginning at a point in the line which divides the county of Pres-
ton from the county of Randolph, on the western summit of the

Alleghany mountain, as run and marked under the authority of the act passed February the twenty-ninth, eighteen hundred and twenty-eight, as aforesaid, and running thence a straight line to the mouth of Muddy run on the east side of Cheat river, where the line dividing Preston and Randolph counties crosses said river, shall be annexed to and be henceforth a part of the county of Preston.

Who to run dividing lines.

2. *Be it further enacted*, That the county court of Preston county shall direct the surveyor of the county whenever they may deem it necessary, to run and mark the line as established by this act; and the county court of Randolph may, at the same time, appoint their county surveyor to attend the surveyor of Preston county in running and marking the line hereby directed; and when the said line shall be run and marked, the surveyors of the counties aforesaid, (should the surveyor of Randolph county attend,) otherwise the surveyor of Preston county alone, shall make two separate plans or maps of the line surveyed as aforesaid, with the courses and distances marked thereon, and also noting any remarkable places, by, along or through which said line passes, with such other notes of explanation as he or they may think necessary. Which said plan or map being examined and approved by the county courts aforesaid, shall be admitted to record, one in the county court office in each of the counties aforesaid; and if not approved, the surveyor or surveyors, as the case may be, shall make other plans or maps, until they be approved. The courts of said counties shall allow their surveyors for such service a reasonable compensation, whenever the said lines shall have been run and marked, and the plans or maps thereof returned, approved and recorded as aforesaid; and shall provide for the payment of the same by a levy on their said counties, according to the services rendered by their surveyors respectively, should the court of Randolph county choose to direct their surveyor to attend as aforesaid.

Plots to be recorded.

Compensation to surveyors.

Who to collect public dues.

Commencement.

3. *Be it further enacted*, That it shall be lawful for the sheriff of the county of Randolph to collect by distress or other legal mode, any public dues, or officers' fees which shall remain unpaid by the inhabitants of that part of Randolph county which will be in Preston county after the passage of this act; and the said sheriff shall be accountable for the same in like manner as if this act had not been passed.

4. This act shall be in force from the passing thereof.

CHAP. 63.—An ACT providing for the selection of a site for the seat of justice for the county of Spottsylvania, and for other purposes.

(Passed March 27, 1838.)

Preamble.

Whereas it is represented to the general assembly that the courthouse in the county of Spottsylvania, has recently been destroyed by fire, and that many of the citizens of the county are desirous to change the site of the seat of justice: Therefore,

Poll to be taken.

1. *Be it enacted*, That it shall be the duty of the sheriff, other officers and commissioners conducting elections in the county of Spottsylvania, at the several places of holding elections in said county for a delegate to the general assembly, at the time of taking the poll for the next annual election of such delegate, to open a separate poll for the purpose of ascertaining the sense of the people as to what point or place a majority of them prefer as the permanent site for the seat of justice for said county. The said poll shall

contain as many columns as there shall be places voted for, and the names of the voters shall be entered in that column, headed with the name of the place voted for. The sheriff, other officers and commissioners conducting said elections, shall poll the vote of every person claiming the right to vote, who is qualified according to the constitution and laws of this commonwealth to vote for a delegate to the general assembly, and also the vote of every white male citizen of said county of the age of twenty-one years and upwards, who hath resided in the said county for one whole year next preceding the election, and who was assessed with a part of the county levy for the preceding year, and actually paid the same: *Provided*, That any such voter does not labour under any legal or constitutional disability, and shall make oath to his qualification so to vote, if required so to do; and if the commissioners who superintend the election, or any one of them, at either place of election, shall have reason to doubt the right of any such person to vote, according to the rule of qualification as hereby prescribed, he or they shall have power to swear such person as to the doubted point or points of qualification, and to swear falsely therein shall be perjury: *Provided*, No site shall be selected for the new courthouse at a greater distance than three miles, in a direct line from the present one; and if any shall be voted for which shall exceed that distance, the votes therefor shall not be counted, but a majority of the residue shall be sufficient to establish the site as hereinafter mentioned.

2. Be it further enacted, That the sheriff, other officers and commissioners conducting said poll at the time and places aforesaid, shall proceed with, certify and return the same to the clerk of their county court, in the same manner, in all other respects, except as is herein otherwise directed, that they are required by law to proceed with, certify and return the poll taken by them for a delegate to the general assembly, and shall be liable to like penalties for similar failures therein.

3. Be it further enacted, That it shall be the duty of one or more of the commissioners from each place of taking a separate poll, to meet the sheriff and his deputies at the courthouse or place of holding courts for said county on the Saturday next after the close of the election, (provided the polls shall not be kept open for three days, in which event, then on the ensuing Monday,) and examine the polls hereby required to be taken, and which shall be produced to them by the clerk of the court of said county, and strike therefrom the names of all such persons as, in the opinion of a majority of them, are not entitled to vote, according to the provisions of this act; and if it shall appear to the said sheriff and commissioners, from the poll so corrected, that a majority of the votes taken are in favour of any one of said places voted for, that fact shall be certified by them to the county court of said county of Spotsylvania: whereupon, such place, so having a majority of votes, shall, to all intents and purposes, be the permanent place for holding courts for said county: *Provided however*, That the proprietor or proprietors can and do make a good and sufficient title to land sufficient for the public use, and to prevent monopoly in the entertainment of the public, and upon such terms as they proposed to do before the election, or as may be deemed just and reasonable by the county court of Spotsylvania, a majority of the justices for the county being present, or the whole of them within the county having

Site to be near
former court-
house.

Poll to be certi-
fied to clerk of
court.

Place selected to
be certified to
court.

Property for site
now acquired.

County Courthouses.

been summoned, and a majority failing to attend. The title to any land purchased or otherwise granted to the said county shall be conveyed to the justices thereof, and their successors in office, for the use of said county; and the said county court shall immediately proceed to cause a courthouse and the other necessary public buildings for the said county of Spotsylvania to be erected at such place.

Where there is no choice, poll to be re-opened.

Proceedings thereon.

Penalties on officers conducting elections for misconduct, &c.

New poll how verified and returned.

4. Be it further enacted, That should it appear to said commissioners who examine the polls aforesaid, that a majority of all the votes given in are not in favour of any one particular place, or the proprietor or proprietors do not convey for the public use, so much land, and upon such terms as are provided for in the third section of this act, then, and in either event, it shall be their duty, (under the direction of the court of said county,) to issue a precipe in the nature of a warrant from under their hands and seals, directed to the sheriff of said county, requiring him to make proclamation and give other general notice, at least twenty days before the time, that another vote to take the sense of the people as to their choice of a site for the courthouse and other necessary public buildings, will be holden on the then next ensuing first Monday in June, between the two places having the highest number of votes on said corrected poll, and shall deliver the same to the sheriff of said county immediately. It shall thereupon be the duty of the sheriff of said county, other officers and commissioners, to open a poll on the said first Monday in June next, at the place for holding courts for said county, and at the several places for holding separate polls therein, and shall proceed with, certify and return the same as herein before required, at the time for holding the election for a delegate to the general assembly; and for such purpose, it shall be the duty of the commissioners, sheriff and other officers in attendance at the places of separate elections in the first instance, to attend and perform the like duties, and shall confine the choice of the voters to the two places having the highest number of votes as aforesaid, and which shall be designated by the commissioners in their precipe or warrant directed as aforesaid. And the said sheriff, other officers and commissioners concerned in conducting the said election or choice for places as aforesaid, shall be liable to the same penalties, for any omission, negligence or misconduct in conducting the same as he or they would be for a like omission, negligence or misconduct in conducting, certifying and returning the poll taken for a delegate to the general assembly.

5. Be it further enacted, That it shall again be the duty of one or more of the commissioners from each place of taking a separate poll, to meet the sheriff of said county and his deputies at the courthouse or place for holding courts for said county, within five days after the close of said election or poll for choice of places as aforesaid, and examine the polls hereby required to be taken, and which shall be produced to them by the clerk of the court of said county, and strike therefrom the names of all such persons as in the opinion of a majority of them, are not entitled to vote according to the provisions of this act: And the poll so corrected, they shall lodge in the clerk's office of said county forthwith, to be by said clerk filed in his office, and by him communicated to the next court holden for said county.

6. Be it further enacted, That the place having the highest number of votes on the said last corrected poll, shall, to all intents and purposes, be the place for constructing the courthouse and other public buildings for said county: *Provided*, The terms and conditions shall be affirmed, as is prescribed for the first election in the third section of this act. And if at the close of the polls so taken, last as aforesaid, or at the time of making the correction of said polls as aforesaid, it shall appear to said commissioners that an equal number of votes have been given to the two places last voted for as aforesaid, then the high sheriff, as in elections for a delegate under similar circumstances, shall select between the said two places.

Site for court-house determined.

Who to decide in case of a tie.

7. Be it further enacted, That for the purpose of erecting the said buildings, the said county court shall be, and is hereby empowered to appoint commissioners to select a place to make contracts, and to do all other things necessary and proper to carry this act into full effect. And to raise the funds to defray the necessary expenses, to pay for sufficient land, and to construct a courthouse and other necessary public buildings for the said county of Spotsylvania, it shall be lawful for the county court of said county, (if they shall deem it expedient in order to relieve the citizens thereof from too great or too frequent exactions, within any short time for said purpose, or for other good cause,) to borrow from time to time, upon such terms as they may deem expedient, such sum or sums of money as may be necessary and sufficient to pay the purchase money for such land, and to erect thereon the buildings and fixtures required by law: *Provided*, That the rate of interest for any money so borrowed shall not exceed six per centum per annum. And for any money so borrowed, it shall be competent to said court to issue scrip, redeemable at the pleasure of said court, at any time within six years; such scrip to be signed by the presiding justice of said court, and countersigned by their clerk, shewing on its face that it is redeemable in six years, or sooner, at the pleasure of the court. The funds for such redemption shall be raised at convenient intervals by a county levy, in the usual manner of assessing and collecting county levies.

Power to court to borrow money.

Money borrowed how paid for.

8. Be it further enacted, That until a courthouse shall be erected, and the sessions of the court for said county held therein, all elections heretofore required by law to be held at the courthouse of said county shall be holden at the house now occupied by Lewis Rawlings as a tavern, that being the place selected by the county court of Spotsylvania, at which to hold its sessions, until a courthouse shall be erected.

Temporary place for holding elections and courts.

9. This act shall be in force from its passage.

Commencement.

CHAP. 64.—An ACT to authorize the removal of causes in equity from the inferior to the superior courts.

[Passed February 12, 1838.]

1. Be it enacted by the general assembly, That whenever any suit in equity shall have been, or shall hereafter be pending in a county or corporation court, for the space of one year, without a final decision thereof having been made, it shall be lawful for any party in such suit, or his or her legal representative, to obtain by motion, without notice, an order of such court, directing that the cause shall

Causes in equity how removed from inferior to superior courts.

be removed to the circuit superior court of law and chancery of the same county or corporation for trial; and the said inferior courts are hereby required to make such order upon the motion of any party as aforesaid, for the removal of the cause.

Duty of clerks in removing papers.

2. *And be it further enacted*, That whenever any cause shall be so ordered to be removed, it shall be the duty of the clerk of the inferior court to deliver to the clerk of the circuit superior court to which the same has been ordered, all the original papers belonging to such cause, together with a statement of all the costs incurred by each party, and copies of all orders which may have been made therein, both at rules and in court, for which the clerk receiving the same shall give a receipt, if required; and thereupon, the cause shall be placed on the docket of the circuit superior court, and shall stand in the same plight and condition in all respects as it stood in the inferior court; and the circuit superior court shall have the same jurisdiction thereof, and shall proceed therein, in all respects, as if the cause had been originally instituted in the circuit superior court, any thing in any law to the contrary notwithstanding: *Provided*, That no greater attorney's fee shall be taxed in causes so removed than would have been in the inferior court.

Attorney's fee.

3. This act shall be in force from the passing thereof.

CHAP. 65.—An ACT concerning the intermediate terms of the circuit superior courts of law and chancery.

(Passed January 16, 1838.)

Intermediate terms how continued and held.

1. *Be it enacted by the general assembly*, That all intermediate terms of the circuit superior courts of law and chancery, including those which may have been heretofore appointed to be held, and have not yet commenced or expired, shall and may be continued and held for so long a period as the judges thereof respectively shall think proper, any law to the contrary notwithstanding.

Commencement.

2. This act shall be in force from and after its passage.

CHAP. 66.—An ACT changing the time of holding the circuit superior courts of York, Warwick and James City, Northampton and Accomack counties.

(Passed March 29, 1838.)

Courts for York, Warwick and James City, when.

1. *Be it enacted by the general assembly*, That the circuit superior courts of law and chancery for the counties of York, Warwick and James City, shall be held at the times hereinafter mentioned, instead of the times now required by law, that is to say: for the county of York on the twenty-sixth day of April and the thirtieth day of October; for the county of Warwick on the second day of May and the fourth day of November; and for the county of James City on the fifth day of May and the seventh day of November; for the county of Northampton on the twenty-fifth day of May and the first day of October; and for the county of Accomack on the third day of June and the eighth day of October: *Provided*, That as to Accomack and Northampton this act shall not take effect till the first day of July next.

For Northampton and Accomack.

2. *And be it further enacted*, That nothing herein contained shall operate to discontinue or invalidate any process issued, or recognizance taken, or notice given, before the commencement of this act; but every such process, recognizance and notice given, taken or returnable to any term of the courts aforesaid, which, as the law now

Provision as to process, &c.

is, would have occurred after the commencement of this act, shall be construed and held, and shall in like manner avail as if given, taken or returnable to the term substituted therefor by the provisions of this act.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 67.—An ACT attaching Charles City county to the fourth district and seventh judicial circuit, and to change the time of holding the fall term of the circuit superior court of law and chancery for the county of Powhatan.

(Passed March 23, 1838.)

1. *Be it enacted by the general assembly,* That hereafter the county of Charles City shall be attached and belong to the fourth district and seventh judicial circuit of this commonwealth, instead of the district and circuit to which it now belongs; and the circuit superior court of law and chancery for the said county of Charles City shall be held on the eighteenth day of May and the eighteenth day of November in every year.

2. *Be it further enacted,* That the fall term of the circuit superior court of law and chancery for the county of Powhatan, shall hereafter be held on the fourth day of November of each year, instead of the time now prescribed by law.

3. *Be it further enacted,* That all process issued, notices given, and recognizances taken, returnable to the first or any other day of any term of said courts, as heretofore directed to be holden, shall be good and available for all their purposes at the like day of any term held in pursuance of this act.

4. This act shall be in force from its passage.

Commencement.

CHAP. 68.—An ACT changing the time of holding the circuit superior courts of the counties of Cumberland, Buckingham and Campbell.

(Passed March 3, 1838.)

1. *Be it enacted by the general assembly,* That the circuit superior court of law and chancery for the counties of Cumberland, Buckingham and Campbell, shall hereafter be held at the times respectively hereinafter mentioned, instead of the times now required by law, that is to say, for the county of Cumberland on the twenty-fifth day of March and the twenty-fifth day of August; for the county of Buckingham on the fourth day of April and the fourth day of September; and for the county of Campbell on the nineteenth day of April and the nineteenth day of September.

2. *And be it further enacted,* That nothing herein contained shall operate to discontinue or invalidate any process issued, or any recognition taken, or notice given, before the commencement of this act; but every such process, recognition and notice given, taken or returnable to any term of the courts aforesaid, which, as the law now is would have occurred after the commencement of this act, shall be construed and held, and shall in like manner avail as if given, taken, or made returnable to the term substituted therefor by the provisions of this act.

3. *Be it further enacted,* That the rules to be held in the clerk's office of the county of Buckingham, for the circuit superior court of law and chancery for said county, in the month of April next, shall be terminated on the third day of the said month for the present year.

4. This act shall be in force from the passing thereof.

Commencement.

CHAP. 69.—An ACT changing the time of holding the circuit superior court of Charlotte county.

(Passed March 31, 1838.)

Court for Charlotte, when to be held.**Provision as to process, &c.****Commencement.**

1. Be it enacted by the general assembly, That the circuit superior court of law and chancery for the county of Charlotte, shall hereafter be held on the fifteenth day of April and the fifteenth day of September, instead of the time now required by law.

2. And be it further enacted, That nothing herein contained shall operate to discontinue or invalidate any process issued, or any recognizance taken, or notice given, before the commencement of this act; but every such process, recognizance and notice given, taken or returnable to any term of the said court, which, as the law now is, would have occurred after the commencement of this act, shall be construed and held, and shall in like manner avail as if given, taken or returnable to the term substituted therefor by the provisions of this act.

3. This act shall be in force from the passing thereof.

CHAP. 70.—An ACT changing the times of holding the superior courts of the county of Mecklenburg.

(Passed March 21, 1838.)

Court for Mecklenburg, when to be held.**Provision as to process, &c.****Commencement.**

1. Be it enacted by the general assembly, That the circuit superior court of law and chancery for the county of Mecklenburg shall hereafter be held on the Tuesday after the third Monday in May and October, instead of the times now required by law.

2. And be it further enacted, That nothing herein contained shall operate to discontinue or invalidate any process issued, or any recognizance taken, or notice given, before the commencement of this act; but every such process, recognizance and notice given, taken or returnable to any term of the court aforesaid, which as the law now is, would have occurred after the commencement of this act, shall be construed and held, and shall in like manner avail, as if given, taken or returnable to the term substituted therefor, by the provisions of this act.

3. This act shall be in force from the passing thereof.

CHAP. 71.—An ACT changing the time of holding the circuit superior courts of the county of Floyd.

(Passed February 20, 1838.)

Court for Floyd county, when to be held.**Provision as to process, &c.****Commencement.**

1. Be it enacted by the general assembly, That the circuit superior court of law and chancery for the county of Floyd, shall hereafter be held on the twenty-sixth day of March and the twenty-sixth day of August, instead of the time now required by law.

2. And be it further enacted, That nothing herein contained shall operate to discontinue or invalidate any process issued, or any recognizance taken, or notice given, before the commencement of this act; but every such process, recognizance and notice given, taken or returnable to any term of the court aforesaid, which as the law now is would have occurred after the commencement of this act, shall be construed and held, and shall in like manner avail, as if given, taken or made returnable to the term substituted therefor by the provisions of this act.

3. This act shall be in force from the passing thereof.

CHAP. 72.—An ACT changing the time of holding the circuit superior courts of the counties of Rappahannock and Orange.

(Passed March 3, 1838.)

1. Be it enacted by the general assembly, That the circuit superior courts of law and chancery for the counties of Rappahannock and Orange, shall hereafter be commenced and held on the days hereinafter mentioned, instead of the times now required by law, that is to say, for the county of Rappahannock, on the twentieth day of April and the twentieth day of September; and for the county of Orange, on the first day of May and the first day of October.

2. And be it further enacted, That nothing herein contained shall operate to discontinue or invalidate any process issued, or any provision as to
recognition taken, or notice given, before the commencement of this act; but every such process, recognition and notice given, taken or returnable to any term of the courts aforesaid, which as the law now is would have occurred after the commencement of this act, shall be construed and held, and in like manner avail, as if given, taken, or made returnable to the terms substituted therefor by the provisions of this act.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 73.—An ACT changing the time of holding the circuit superior court of law and chancery for the county of Morgan.

(Passed March 21, 1838.)

1. Be it enacted by the general assembly, That the circuit superior court of law and chancery for the county of Morgan, shall hereafter be held on the twenty-eighth day of April and on the twenty-eighth day of September, instead of the times now appointed by law.

2. And be it further enacted, That nothing herein contained shall operate to discontinue or invalidate any process issued, any provision as to
recognition taken, or any notice given, before the commencement of this act; but every process, recognition or notice given, taken, or returnable to any term of the court aforesaid, as now fixed by law, shall be construed and held, and shall in like manner avail, as given, taken, or made returnable to the terms substituted therefor, by the provisions of this act.

3. This act shall be in force from its passage.

Commencement.

CHAP. 74.—An ACT changing the time of holding the circuit superior courts of law and chancery for the counties of Lee and Scott.

(Passed January 31, 1838.)

1. Be it enacted by the general assembly, That the circuit superior courts of law and chancery for the counties of Lee and Scott, shall, instead of the time now required by law, be held at the times hereinafter provided, that is to say: For the county of Lee on the first Monday in April and September of each year; and for the county of Scott on the second Monday in April and September in each year; and that nothing herein contained shall operate to discontinue or invalidate any process issued, or any provision as to
recognition taken, or notice given before the commencement of this act; but every such process, recognition and notice, given, taken or returnable to any term of the courts aforesaid, which as the law now is would have occurred after the commencement of this act, shall be construed and held, and shall in like manner avail, as if given, taken,

or returnable to the term substituted therefor by the provisions of this act.

Commencement. 2. This act shall be in force from the passage thereof.

CHAP. 75.—An ACT concerning the judge of the sixteenth circuit in the eighth judicial district.

(Passed March 31, 1838.)

Spring terms of Monroe, Mercer, Giles and Montgomery courts omitted.

Special term for Giles court.

Commencement.

1. *Be it enacted by the general assembly,* That the judge of the sixteenth circuit in the eighth judicial district of Virginia, be, and he is hereby authorized and empowered to omit holding the spring terms of the circuit superior courts of law and chancery in the present year, in the counties of Monroe, Mercer, Giles and Montgomery: *Provided,* That the said judge shall hold a special term of the circuit superior court of law and chancery for the county of Giles, to commence on the fourth day of May next, and to continue so long as may be by the court deemed necessary.

2. This act shall be in force from its passage.

CHAP. 76.—An ACT changing the time of holding the circuit superior courts of law and chancery for the counties of Fayette and Nicholas.

(Passed January 15, 1838.)

Courts for Fayette and Nicholas, when to be held.

Provision as to process, &c.

Commencement.

1. *Be it enacted by the general assembly,* That the circuit superior courts of law and chancery for the counties of Fayette and Nicholas, shall hereafter be commenced and held on the days herein-inafter mentioned, instead of the times now required by law, that is to say, for the county of Fayette on the thirty-first day of March and the thirty-first day of August; and for the county of Nicholas on the seventh day of April and the seventh day of September.

2. *And be it further enacted,* That nothing herein contained shall operate to discontinue or invalidate any process issued, or any recognizance taken, or notice given before the commencement of this act; but every such process, recognizance and notice given, taken or returnable to any term of the courts aforesaid, which, as the law now is, would have occurred after the commencement of this act, shall be construed and held, and shall in like manner avail as if given, taken or returnable to the term substituted therefor by the provisions of this act.

3. This act shall be in force from the passage thereof.

CHAP. 77.—An ACT changing the time of holding the circuit superior courts of Marshall county.

(Passed February 2, 1838.)

Court for Marshall county when to be held.

Provision as to process, &c.

1. *Be it enacted by the general assembly,* That the circuit superior court of law and chancery for the county of Marshall, shall hereafter be held on the twelfth day of May and the twelfth day of October, instead of the time now required by law.

2. *And be it further enacted,* That nothing herein contained shall operate to discontinue or invalidate any process issued, or any recognizance taken, or notice given before the commencement of this act, but every such process, recognizance and notice given, taken or returnable to any term of the court aforesaid, which, as the law now is, would have occurred after the commencement of this act, shall be held and construed, and shall in like manner avail

as if given, taken or made returnable to the term substituted therefor by the provisions of this act.

3. This act shall be in force from the passage thereof.

Commencement.

CHAP. 78.—An ACT to authorize the appointment of a third commissioner in chancery for Norfolk county.

(Passed January 15, 1838.)

1. *Be it enacted by the general assembly,* That it shall be lawful for the judge of the circuit superior court of law and chancery for the county of Norfolk, either in term time or in vacation, to appoint a third commissioner in chancery for the said court; and the commissioner so to be appointed, shall be subject in all respects to the laws now in force, or which may hereafter be enacted respecting commissioners of the superior courts of chancery.

2. This act shall be in force from its passage.

Commencement.

CHAP. 79.—An ACT limiting the time within which justices of the peace may qualify.

(Passed March 5, 1838.)

1. *Be it enacted by the general assembly,* That all persons heretofore commissioned as justices of the peace within this commonwealth who shall not qualify to their commission within six months after this act shall go into effect, and all such persons as shall hereafter be commissioned as justices of the peace, who delay or neglect to qualify as such within the period before mentioned after the date of the commission, shall forfeit his or their right to qualify, and such delay or neglect shall vacate and render void the commission as to him or them so delaying or neglecting to qualify within the time herein before specified, any law or usage to the contrary notwithstanding.

Time for qualification of justices specified.

Commissions vacated by neglect.

2. This act shall be in force from the first day of July next.

Commencement.

CHAP. 80.—An ACT changing the time of holding the courts of Alleghany county.

(Passed March 18, 1838.)

1. *Be it enacted by the general assembly,* That the county courts of the county of Alleghany shall hereafter be held on the third Monday in every month, instead of the times now required by law.

Court for Alleghany, when to be held.

2. *And be it further enacted,* That nothing herein contained shall operate to discontinue or invalidate any process issued, or any recognition taken, or any notice given before the commencement of this act; but every such process, recognition and notice given, taken or returnable to any term of the court of the said county, which, as the law now is, would have occurred after the commencement of this act, shall be construed and held, and shall in like manner avail as if given, taken or returnable to the term substituted therefor by the provisions of this act.

Provision as to process, &c.

3. This act shall be in force from the first day of April next.

Commencement.

CHAP. 81.—An ACT changing the time of holding the June and November quarterly terms of the county of Bath.

(Passed March 5, 1838.)

1. *Be it enacted by the general assembly,* That the quarterly courts of the county of Bath, at present required to be held in the

Quarterly courts for Bath county, when to be held.

months of June and November, shall hereafter be held in the months of May and October.

Commencement. 2. This act shall be in force from the passing thereof.

CHAP. 82.—An ACT to amend the act changing the time of holding the county court of Fayette.

(Passed February 13, 1838.)

Court for Fayette, when to be held.

1. *Be it enacted by the general assembly,* That the county court of the county of Fayette shall hereafter be holden on the third Tuesday in every month, instead of the time now required by law; and all process issued, notices given and recognizances taken to the first or any other day of any term of said court as heretofore appointed, shall be good and available for the like day of the said term appointed by this act.

2. This act shall be in force from the passing thereof.

CHAP. 83.—An ACT changing the time of holding the November quarterly term of Monongalia county court.

(Passed January 13, 1838.)

Court of Monon-
galia, when to be held.

1. *Be it enacted by the general assembly,* That the November quarterly court for the county of Monongalia shall hereafter be held on the fourth Monday in that month, instead of the time now required by law.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 84.—An ACT changing the time of holding the county court of Scott county.

(Passed March 28, 1838.)

Court of Scott county, when to be held.

1. *Be it enacted by the general assembly,* That the county court of the county of Scott shall hereafter be held on the Tuesday after the second Monday in each month, instead of the time now required by law.

2. *And be it further enacted,* That nothing herein contained shall operate to discontinue or invalidate any process issued, or any recognition taken, or notice given before the commencement of this act; but every such process, recognition and notice given, taken or returnable to any term of the said court, which, as the law now is, would have occurred after the commencement of this act, shall be construed and held, and shall in like manner avail, as if given, taken or returnable to the term substituted therefor by the provisions of this act.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 85.—An ACT exempting firemen from serving on juries.

(Passed April 2, 1838.)

**Firemen in Rich-
mond and Ports-
mouth exempt
from serving on
juries.**

1. *Be it enacted by the general assembly,* That the members of all incorporated fire companies within the city of Richmond and town of Portsmouth, shall be, and they are hereby exempted from serving as petit jurors in any civil case whatever.

2. This act shall be in force from the passing thereof..

Commencement.

CHAP. 86.—An ACT allowing additional compensation to witnesses in commonwealth's prosecutions.

(Passed April 6, 1838.)

1. Be it enacted by the general assembly, That witnesses in commonwealth's prosecutions, either on behalf of the commonwealth or of the person or persons accused, who travel over and above fifty miles to attend the court before which they shall hereafter be summoned, or be recognized to appear, may, in lieu of the compensation now allowed by law, be allowed by order of the court the sum of one dollar per day for attendance, and be paid for travelling to the place of attendance six cents per mile, and the same for returning, to be paid by the party or parties on whose behalf the summons issued or the recognizance may be taken, in the same manner as is now prescribed by law.

2. This act shall be in force from its passage.

Commencement.

CHAP. 87.—An ACT concerning the appointment of clerks.

(Passed March 23, 1838.)

(Passed March 23, 1855.)

1. *Be it enacted by the general assembly,* That it shall be lawful Clerks of courts, when to be appointed and qualified, for the circuit superior courts of law and chancery and the county and corporation courts to appoint and qualify the clerks of their several courts either at the period when the time for which they may have been respectively appointed shall expire, or at the next preceding term of the courts, or as soon thereafter as may be; but no clerk who may be appointed before the expiration of the term of his successor, shall enter upon the duties of his office until such term shall have expired; and if from any cause the clerk of any circuit superior court shall not have been appointed at the proper time, it shall be lawful for the judge of the said court to make the appointment in vacation.

2. This act shall be in force from its passage.

Commencement.

CHAP. 88.—An ACT amending the act requiring the clerks of the courts of appeals and circuit supérieur courts of law and chancery to perform certain services therein mentioned.

(Passed April 6, 1838.)

1. Be it enacted by the general assembly, That the reports which are directed to be made by the clerks of the circuit superior courts of law and chancery to the clerk of the house of delegates by the act "requiring the clerks of the court of appeals and circuit superior courts of law and chancery to perform certain services therein mentioned," shall be made on or before the first day of November annually; shall embrace all causes in those courts for the year ending on the thirtieth day of August preceding, and shall be in the following form, to wit:

= Form of report.

<u>Suits at Law.</u>	<u>Causes in Chancery.</u>	<u>Prosecutions.</u>	<u>Terms—Days in Session.</u>	<u>REMARKS.</u>
No. commenced.				
No. pending.				
No. decided.				
No removed from other courts.				
No. commenced.				
No. pending.				
No. interlocutory decrees.				
No. final decrees.				
No. removed from county courts.				
No. commenced.				
No. pending.				
No. decided.				
No. nolle prosequi.				
Change of venue.				
Fall.				
Spring.				
Total.				

Clerks—Process.—Embezzling Records.

Abstract of reports.

From which reports the clerk of the house of delegates shall make a condensed statement or abstract, and report the same to the legislature.

Commencement.

2. This act shall be in force from the passing thereof.

CHAP. 89.—An ACT concerning the clerk of the hustings court and the sergeant of the city of Richmond.

(Passed April 6, 1838.)

Compensation to clerk and sergeant of Richmond for public services.

1. *Be it enacted by the general assembly,* That for all public services required to be performed by the clerk of the hustings court of the city of Richmond, and the sergeant of the said city, there may be allowed by the said court, to the officers aforesaid respectively, in the manner directed by the act, entitled, “an act reducing into one the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees,” passed March the second, eighteen hundred and nineteen, such sum as the said court may think reasonable; that is to say, to the clerk a sum not exceeding three hundred dollars, and to the sergeant a sum not exceeding two hundred dollars, to be levied, collected and paid in the manner and at the time now required by law.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 90.—An ACT to require process from the county courts to be sent by mail in certain cases.

(Passed April 6, 1838.)

Clerks of county courts to keep process books; to transmit process by mail.
Sup. Code, pp. 163-164, § 73-74.

1. *Be it enacted by the general assembly,* That the seventy-third and seventy-fourth sections of the act “to establish a court of law and chancery in each of the counties of this commonwealth, and in certain corporations therein mentioned,” passed the sixteenth day of April, eighteen hundred and thirty-one, shall be, and the same are hereby declared to be applicable to the county and corporation courts, and their clerks, and to all suits and proceedings therein; and the said clerks and all others shall conform to and be governed by the said sections in the same manner as if such courts had been specially named therein; and the postage on all process issuing therefrom and transmitted by mail, shall be allowed and paid in the manner prescribed by the said act.

2. This act shall be in force from and after its passage.

Postage allowed.

Commencement.

CHAP. 91.—An ACT concerning the embezzlement of records.

(Passed March 8, 1838.)

Punishment for embezzling, altering or destroying records.

1. *Be it enacted by the general assembly,* That if any person shall hereafter steal, or shall fraudulently erase, alter, secrete or destroy any record of any court of law of this commonwealth, or parcel of such record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, warrant of attorney, declaration, plea, process, or any other paper filed in any cause at law, or relating to any matter civil or criminal, begun, pending or determined in any such court of law; or any bill, answer, interrogatory, deposition, exhibit, rule, process, order or decree, or parcel of such decree, or any document whatsoever, of or belonging to any court of equity, or relating to any cause or matter, begun, pending or determined in any such court of equity, such person shall be deemed guilty of felony, and on conviction thereof, if he, she or they be a slave or slaves, shall suffer death; but if such felon or felons be

free, he, she or they shall be sentenced to imprisonment in the public jail and penitentiary house, for a term not less than two, nor more than ten years.

2. This act shall be in force from the passage thereof.

Commencement.

CHAP. 92.—An ACT concerning the probat of wills.

(Passed March 24, 1838.)

1. *Be it enacted by the general assembly,* That when any person shall offer or intend to offer for probat any last will and testament, it shall be lawful for him to obtain from the clerk of the circuit court having jurisdiction thereof, a summons or summonses directed to the sheriff or other officer of any county or corporation, requiring him to summon any other person or persons who may be interested in the question of the probat thereof, to appear at the next term of such court, to shew cause, if any there be, why the said will or testament should not be admitted to probat; and the circuit superior court in which a will or testament shall be offered, or into which the question of probat may be removed by an appeal or otherwise, shall have power to cause all persons who may be interested in the probat thereof to be summoned to appear on some day to be appointed for the purpose aforesaid; and if any such person have no known place of residence within this commonwealth, an order shall be made requiring him or her to appear at the time so appointed, and the same shall be published for not less than eight weeks in some newspaper to be designated by the court; if any person so interested be an infant, or of unsound mind, it shall be the duty of the court to appoint a guardian *ad litem* as in other cases; but if any infant be above the age of fourteen years, and be a resident of this state, he or she shall be personally summoned as before directed.

2. *And be it further enacted,* That when all the parties interested shall have been thus summoned or notified, by order of publication to appear, or shall otherwise appear as parties in any motion for the probat of any will or testament, the court shall proceed to hear the same, and if any person interested therein shall require an issue of *devisavit vel non* to be tried by a jury, the court shall order the same, and shall have power to make all proper orders for the purpose, to change the same and grant new trials, and to render final sentence or judgment; but if the parties who appear shall consent to waive the same, then the court shall proceed in the manner now required by law in such cases, to decide the question of probat. In every such proceeding, the said courts shall have power to require all testamentary papers of the same testator to be produced, so as to decide finally what may be the true last will of the testator, or whether there be any will or testament.

3. *And be it further enacted,* That every sentence or final order, made as aforesaid, shall be a bar to any proceeding by bill in equity, to impeach or to establish any will or testament which may have been so admitted to probat, or rejected, unless the plaintiff or plaintiffs in equity shall have such grounds of equity as would give to the courts thereof jurisdiction over other judgments at law; saving, however, to infants for one year after they become of age, and to persons residing without the commonwealth, or not having been actually summoned as before directed, two years after such final

Power of courts to summon parties.

Order of publication for non-resident parties.

When guardians to be appointed for infants, &c.

When to be summoned in person.

Probat receivable when parties appear or are summoned.

When issue to be tried by jury.

Proceedings by court.

All testamentary papers to be produced.

Final order of probat bar to proceed in equity.

When party may apply to court of equity.

Saving for infants, &c.

Probat of Wills.—Actions on Official Bonds.

Appeals allowable. sentence or order; within which periods it shall be lawful for him, her or them to institute any such suit in the same manner, and with the like effect as if this act had never passed.

Probat under former laws good. 4. *And be it further enacted,* That appeals may be had from any sentence or order under the provisions of this act, allowing or overruling the probat of a will or testament, in the same manner as in other cases: *Provided*, That it shall not be necessary to re-record the testimony relating to any will, as to which an issue shall have been tried, as is herein before directed: *And provided*, That nothing in this act contained shall be so construed as to prevent the probat of last wills and testaments in the manner heretofore prescribed by law, or to invalidate any such probat, although none of the parties interested shall have been summoned or notified to appear.

Depositions of infirm witnesses how attainable.

5. *And be it further enacted,* That when a subscribing witness to any last will or testament shall be unable from sickness, age or other infirmity, to attend the court, whether inferior or superior, in which the same may be offered for probat, and there be good cause to believe that such inability will be permanent, it shall be lawful for any two justices of the peace to exhibit to the witness the writing purporting to be the will or testament, and to take his or her evidence upon oath, or solemn affirmation, that the testator acknowledged the said writing to be his or her last will or testament, and was at the time of sound and disposing mind and memory, and that the witness attested the same in the presence, and at the request of the testator; and upon a certificate thereof by the said justices, and proof by a credible witness in open court, that the subscribing witness aforesaid is really in the condition before described, it shall be lawful for the court, if there be no party contesting the probat of the will, to receive such certificate and proof, and to allow the same legal effect thereto, as if the subscribing witness had given such testimony before the court; and the same in any subsequent contest about the said will, upon any issue before a jury, shall be legal evidence, to have such weight as the jury may think proper.

Effect of such depositions.

6. This act shall be in force from the first day of June next.

CHAP. 93.—An ACT concerning actions upon the official bonds of executors, administrators and others.

(Passed February 13, 1838.)

Death of judge, justice or payee not to prevent actions on official bonds.

1. *Be it enacted by the general assembly,* That every action upon the official bond of any executor, administrator, guardian, committee, curator, or other officer, whether such bond shall have been executed before or after the passage of this act, may be brought, maintained, and prosecuted to judgment and final execution, in the names of the judges, justices, or other person to whom such bond is made payable, for the benefit of the person injured by the breach of any condition of the said bond, whether such judges, justices, or other person to whom it is made payable, be alive or not; and such suit shall not be abated, nor shall execution of the judgment thereon be hindered or delayed by any allegation of the death of the said judges, justices or other person, or any of them.

Suit not to abate nor execution delayed by such death.

Certain exceptions to such bonds not allowable.

2. *And be it further enacted,* That no exception shall be allowed to any such bond on the ground that any justice or justices to whom the same may be made payable, was not sitting in the court at the time when the bond was executed, or that any other justice was

sitting: *And provided,* That nothing herein contained shall be so construed as to prevent suits being brought on the bonds aforesaid in the manner now authorized by law.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 94.—An ACT amending the laws concerning attachments against absconding debtors.

(Passed March 6, 1838.)

1. *Be it enacted by the general assembly,* That whenever an attachment against an absconding debtor shall be levied upon live stock, or other property liable to perish, or to become materially impaired in value, or which it may be expensive to keep, it shall be lawful for the court in which the case may be, if the same be not decided, or the property otherwise disposed of at the term to which the attachment may be returnable, to order the sheriff or other officer to sell such live stock or other property at such time and place, on such terms and after such public notice as the court may prescribe; and the sheriff or other officer making such sale, and his securities, shall be accountable for the proceeds thereof, and be liable for all the penalties for the non-payment of the same, to the person to whom the court may subsequently order the amount thereof to be paid, in the same manner in all respects as for the proceeds of the sales of property ordered to be sold to satisfy judgments upon attachments.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 95.—An ACT amending the statute of limitations.

(Passed April 3, 1838.)

1. *Be it enacted by the general assembly,* That in actions of debt, or upon the case, grounded upon any simple contract, no acknowledgment or promise made hereafter, by words only, shall be deemed sufficient evidence of a new or continuing contract, whereby to take any case out of the operation of the act, entitled, "an act for limitation of actions, for preventing frivolous and vexatious suits, concerning jeofails and proceedings in civil cases," passed February twenty-fifth, eighteen hundred and nineteen, or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be made or contained by or in some writing to be signed by the party chargeable thereby; and that where there shall be two or more joint contractors, or executors or administrators of any contractor, no such joint contractor, executor or administrator, shall lose the benefit of the said act, so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed by any other or others of them: *Provided,* That in actions to be commenced against two or more such joint contractors, or executors or administrators, if it shall appear at the trial or otherwise, that the plaintiff, though barred by the before recited act, or this act, as to one or more of such joint contractors, or executors or administrators, shall nevertheless be entitled to recover against any other or others of the defendants, by virtue of a new acknowledgment or promise, or otherwise, judgment may be given and costs allowed for the plaintiff as to such defendant or defendants against whom he shall recover, and for the other defendant or defendants against the plaintiff: *And provided also,* That every such written promise or acknowledgment shall be held and taken to be a drawing commence running from date of new promise.

down of the original debt or contract to the date of the said promise or acknowledgment.

When acts of limitation to bar certain pleas in abatement

2. *And be it further enacted,* That if any defendant or defendants in any action on any simple contract shall plead any matter in *abatement* to the effect that any other person or persons ought to be jointly sued, and issue be joined on such plea, and it shall appear at the trial that the action could not, by reason of the said recited act, or of this act, or of either of them, be maintained against the other person or persons named in such plea, or any of them, the issue joined on such plea shall be found against the party pleading the same.

Limitation applicable to set-off.

3. *And be it further enacted,* That the said recited act and this act shall be deemed and taken to apply to the case of any debt on simple contract alleged by way of set-off on the part of any defendant, either by plea, notice, or otherwise.

What ratification of debts contracted during infancy binding on adults.

4. *And be it further enacted,* That no action shall be maintained whereby to charge any person upon any promise hereafter made, after full age, to pay any debt contracted during *infancy*, or upon any ratification after full age, of any promise or simple contract made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith, or by agent or some other person legally authorized to do the same.

Limitation of actions on store accounts.

5. *And be it further enacted,* That so much of the before recited act as limits actions upon store accounts, for goods, wares and merchandise sold and delivered, to one year, shall be, and the same is hereby repealed; and all such actions shall and may be brought within two years next after the cause of action shall have accrued, or after the delivery of the goods, wares and merchandise, and not after, subject nevertheless to the other provisions of the before recited act.

Commencement.

6. This act shall be in force from and after the first day of August next.

CHAP. 96.—An ACT amending the statute of jeofails.

(Passed March 12, 1838.)

No judgments rendered by default to be reversed for defect or informality.

1. *Be it enacted by the general assembly,* That all judgments hereafter rendered in any circuit superior court of law and chancery for default of appearance, whether entered as office judgments or upon verdicts after writs of enquiry awarded for the assessment of damages, shall be deemed and held to be within the provisions of the one hundred and third section of the act, entitled, "an act for limitation of actions, for preventing frivolous and vexatious suits, concerning jeofails and certain proceedings in civil cases," passed February the twenty-fifth, eighteen hundred and nineteen, as fully as if such judgments had been particularly named therin:

1 Rev. Code 1819, pp. 511, 512, § 103.

Provided always, That if it shall appear by the record thereof, that any order or orders had been illegally taken or entered at rules in any such case, and that the same would have been set aside, if a motion for that purpose had been made at the term next after taking or entering the said rule or rules, or in case of any such variance between the writ and declaration as would be ground for reversal of the judgment in the court of appeals, it shall be lawful for the court, or for any judge of the general court in vacation, to award a writ of error *coram nobis* to such judgment, and upon the trial thereof to make such order as would have been made if a mo-

Writs of error to such judgment, when and how awardable.

Proceedings thereof.

tion or plea had been submitted at the proper time to correct the proceedings at rules, or to render such judgment as might have been rendered in the court of appeals if this act had not passed.

2. *And be it further enacted,* That in all actions on contracts against two or more defendants, if one or more of them shall be acquitted, or discharged by the verdict of a jury or otherwise, the plaintiff shall nevertheless be entitled to proceed to judgment against the other defendant in joint actions on contracts not to bar the judgment against the other.

against the other defendant or defendants in like manner as if the action had been instituted against him or them, without joining the party or parties who may have been acquitted or discharged, but the last mentioned party or parties shall be entitled to recover his or their costs of the plaintiff.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 97.—An ACT concerning actions of ejectment.

[Passed April 6, 1838.]

1. *Be it enacted by the general assembly,* That it shall be lawful for the plaintiff in any action of ejectment hereafter instituted, to give notice to the defendant or tenant in possession, by serving him with a copy of the declaration and notice according to law, to appear on some rule day at the clerk's office of the court in which said suit may be instituted; and upon legal proof of the service of such declaration and notice according to law, the clerk shall enter the common order in the same manner, and to the same effect as the court might do, requiring the appearance of the party at the next term; and upon the legal service of a copy thereof, the court shall proceed in all respects as if the common order had been made in term time; saying to the court, however, the same authority over the proceedings at rules as in other cases.

2. *And be it further enacted,* That in the trial of all actions of ejectment which may be now pending, or hereafter be instituted, if the jury find a verdict in favour of the plaintiff, it shall be lawful for them to assess damages for the mesne profits of the lands for any period not exceeding five years previously to the commencement of the suit, until the date of the verdict and judgment shall be entered for the same, for the use of the lessor of the plaintiff, his executors or administrators: *Provided*, That such damages shall not be assessed unless the plaintiff file with his declaration a statement shewing the amount of profits and other damages up to the date of the notice in ejectment which he means to demand.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 98.—An ACT changing the proceedings in cases of outlawry.

[Passed March 5, 1838.]

1. *Be it enacted by the general assembly,* That when any person shall hereafter be proceeded against and prosecuted to outlawry in any of the counties or corporations of this commonwealth, judgment of outlawry shall be given and rendered by the circuit superior court of law and chancery of the county or corporation in which such proceedings and prosecution may have been had, instead of by the coroner or coroners of such county or corporation, any law, usage or custom to the contrary notwithstanding.

2. This act shall be in force from the passing thereof.

Commencement.

Free Negroes.—Burning in Hand.—Concealed Weapons.

CHAP. 99.—An ACT to prevent free persons of colour who leave the state from returning to it in certain cases.

(Passed April 7, 1838.)

Free negroes leaving state to be educated not permitted to return.

Infants so returning how dealt with.

Adults how punished.

Commencement.

1. *Be it enacted by the general assembly,* That if any free person of colour, whether infant or adult, shall go or be sent or carried beyond the limits of this commonwealth for the purpose of being educated, he or she shall be deemed to have emigrated from the state, and it shall not be lawful for him or her to return to the same; and if any such person shall return within the limits of the state contrary to the provisions of this act, he or she being an infant, shall be bound out as an apprentice until the age of twenty-one years, by the overseers of the poor of the county or corporation where he or she may be, and at the expiration of that period, shall be sent out of the state agreeably to the provisions of the laws now in force, or which may hereafter be enacted to prohibit the migration of free persons of colour to this state; and if such person be an adult, he or she shall be sent in like manner out of the commonwealth; and if any person having been so sent off, shall thereafter return within the state, he or she so offending shall be dealt with and punished in the same manner as is or may be prescribed by law in relation to other persons of colour returning to the state after having been sent therefrom.

2. This act shall be in force from and after the first day of August next.

CHAP. 100.—An ACT abolishing the punishment of burning in the hand in all cases.

(Passed February 8, 1838.)

Burning in hand abolished.

Commencement.

1. *Be it enacted by the general assembly,* That so much of any law of this commonwealth as authorizes or inflicts the punishment of burning in the hand in any case whatever, shall be, and the same is hereby repealed. And every person who may be hereafter convicted of any offence within the benefit of clergy, shall be punished in the mode now prescribed by law, except only the burning in the hand.

2. This act shall be in force from the passing thereof.

CHAP. 101.—An ACT to prevent the carrying of concealed weapons.

[Passed February 2, 1838.]

Penalty for carrying concealed weapons.

Courts to ascertain if murders or felonies be perpetrated by concealed weapons.

1. *Be it enacted by the general assembly,* That if any person shall hereafter habitually or generally keep or carry about his person any pistol, dirk, bowie knife, or any other weapon of the like kind, from the use of which the death of any person might probably ensue, and the same be hidden or concealed from common observation, and he be thereof convicted, he shall for every such offence forfeit and pay the sum of not less than fifty dollars nor more than five hundred dollars, or be imprisoned in the common jail for a term not less than one month nor more than six months, and in each instance at the discretion of the jury; and a moiety of the penalty recovered in any prosecution under this act, shall be given to any person who may voluntarily institute the same.

2. *And be it further enacted,* That if any person shall hereafter be examined in any county or corporation court upon a charge of murder or felony, perpetrated by shooting, stabbing, maiming, cutting or wounding, and it shall appear that the offence charged was

in fact committed by any such weapon as is above mentioned, and that the same was hidden or concealed from or kept out of the view of the person against whom it was used, until within the space of one half hour next preceding the commission of the act, or the infliction of the wound, which shall be charged to have caused the death, or constituted the felony, it shall be the duty of the examining court to state that the fact did so appear from the evidence; and if the court shall discharge or acquit the accused, such discharge or acquittal shall be no bar to an indictment for the same offence in the superior court having jurisdiction thereof, provided the same be found within one year thereafter. And whether the accused shall be by such court sent on for further trial or discharged, it shall be lawful to charge in the indictment that the offence was committed in any of the modes herein before described; and upon the trial it shall be the duty of the jury (if they find the accused not guilty of the murder or felony) to find also whether the act charged was in fact committed by the accused, though not feloniously, and whether the same was committed or done with or by means of any pistol, dirk, bowie knife, or other dangerous weapon, which was concealed from or kept out of the view of the person on or against whom it was used, for the space before mentioned, next preceding such use thereof; and if the jury find that the act was so committed, they shall assess a fine against the accused, and it shall be lawful for the court to pronounce judgment as in cases of misdemeanor.

Acquittal no bar
to indictment in
superior court.

Offense how
charged in indict-
ment.

Verdict of jury
what to contain.

Penalty.

3. This act shall be in force from and after the first day of June Commencement next.

CHAP. 102.—An ACT to extend the act for the temporary relief of the banks of this commonwealth.

(Passed February 20, 1838.)

1. *Be it enacted by the general assembly,* That the first, second and seventh sections of the act passed on the twenty-fourth day of June, eighteen hundred and thirty-seven, entitled, "an act for the temporary relief of the banks of this commonwealth, and for other purposes," shall be, and the same are hereby continued in force till the twentieth day of March next.

Laws for tem-
porary relief of banks
extended.

See post, ch. 102.
Acts extra session
1837, pp. 3, 4,
§ 1, 2, 7.

2. *Be it further enacted,* That so much of the provisions of the act, entitled, "an act increasing the banking capital of the commonwealth," passed March the twenty-fifth, eighteen hundred and thirty-seven, as relates to the Bank of Virginia, the Farmers bank of Virginia, and the Bank of the Valley of Virginia, shall be and the same is hereby suspended until the first day of April next.

Part of act in-
creasing banking
capital suspended.
Acts 1836-7, pp.
68-74.

3. This act shall commence and be in force from the passage Commencement thereof.

CHAP. 103.—An ACT further to extend the act for the temporary relief of the banks of this commonwealth.

[Passed March 16, 1838.]

1. *Be it enacted by the general assembly,* That the first, second and seventh sections of the act passed on the twenty-fourth day of June, eighteen hundred and thirty-seven, entitled, "an act for the temporary relief of the banks of this commonwealth," be and the same is hereby continued in force till the expiration of the present session of the legislature, any law to the contrary notwithstanding.

Laws for tem-
porary relief of banks
further extended.

2. This act shall be in force from its passage.

Commencement.

CHAP. 104.—An ACT for the temporary relief of the North-western bank of Virginia.

(Passed March 14, 1838.)

Act prohibiting bank issuing notes less than ten dollars suspended.
Acts 1836-7, p. 59.

1. *Be it enacted by the general assembly,* That the operation of so much of the act, entitled, "an act establishing general regulations for the incorporation of banks," passed March twenty-second, eighteen hundred and thirty-seven, as prohibits the banks of this commonwealth from issuing notes of a less denomination than ten dollars, shall be suspended so far as the North-western bank of Virginia is concerned, until the first day of April, eighteen hundred and thirty-nine; after which day the said bank shall be subject in all respects to the said prohibition: *Provided*, That nothing in this act contained shall be construed to authorize the said bank to issue notes under the value or denomination of five dollars.

Act requiring branch at Parkersburg suspended.

* The act referred to contains no such provision; it ought to be the act increasing the banking capital.
Acts 1836-7, p. 70,
§ 6.

Commencement.

2. *And be it further enacted,* That so much of the said recited act,* as requires the said bank to establish an office of discount and deposite at Parkersburg, in the county of Wood, shall be and the same is hereby suspended until the first day of April, eighteen hundred and thirty-nine.

3. This act shall commence and be in force from and after the passage thereof.

CHAP. 105.—An ACT to suspend the act increasing the banking capital of this commonwealth.

(Passed March 31, 1838.)

Act increasing banking capital relating to Bank of Virginia, Farmers bank and Valley bank suspended.

Loans of surplus revenue continued to banks.

When surplus to be loaned to others.

Commencement.

1. *Be it enacted by the general assembly,* That so much of the act, entitled, "an act increasing the banking capital of the commonwealth," as relates to the Bank of Virginia, the Farmers bank of Virginia, and the Bank of the Valley in Virginia, and their respective branches, be and the same is hereby suspended until the first day of April, eighteen hundred and thirty-nine; and it shall be lawful for the treasurer, with the advice of the executive, to continue the loans which have been made out of the surplus revenue received from the United States, to the said banks, until the first day of April, eighteen hundred and thirty-nine, at an interest of not less than five per centum per annum. And if the said banks or either of them shall decline to borrow the said sums, or any part thereof, or if any other loans which have been made out of the surplus revenue be paid into the treasury on or before the first day of January next, it shall be the duty of the treasurer, with the advice of the executive, to lend out every such amount upon satisfactory security until the first day of April, eighteen hundred and thirty-nine, at an interest of six per centum per annum.

2. This act shall be in force from the passing thereof.

CHAP. 106.—An ACT concerning the banks of this commonwealth, and for other purposes.

(Passed April 2, 1838.)

Laws subjecting banks to forfeiture of charter for non-payment of specie suspended.

1. *Be it enacted by the general assembly,* That so much of any act or acts as may subject any bank or banking company, now incorporated by law, and in actual operation as a bank, to the forfeiture of its charter for failing to pay or redeem its notes or debts in specie, and which may subject such bank or banking company to the payment of any damages or rate of interest exceeding six per cent. per annum, for so failing or refusing to pay or redeem its

notes and debts in specie, shall be, and the same is hereby suspended until the first day of April, eighteen hundred and thirty-nine; and if any such bank or banking company shall have forfeited its charter by failing or refusing to pay or redeem its notes or debts as aforesaid, the forfeiture thereby incurred shall be remitted, and the charter of the bank, with all the rights and powers therein conferred, shall be, and the same is hereby declared to be in full force and effect to all intents and purposes until the period aforesaid: *Provided*, That the amount of any note or debt due from any bank or banking company, with legal interest thereon, may be recovered in any of the modes now authorized by law.

2. *And be it further enacted*, That the notes of the several banks which have been heretofore required to be received in payment of taxes or debts due to the commonwealth, shall continue to be so received, and the deposits of the public revenue shall continue to be made in the Bank of Virginia and the Farmers bank of Virginia, unless the treasurer, with the advice of the executive, shall direct otherwise in respect to such receipts or deposits, or both, in the mode now prescribed by law.

3. *And be it further enacted*, That every bank in this commonwealth may, from its nett profits, declare a dividend on its capital stock not exceeding three per centum previous to the first day of August next, but shall make no dividend thereafter; if it shall fail or refuse to pay or redeem its notes or debts in specie, every such bank or banking company shall be bound and liable to pay interest thereon, at the rate of ten per centum per annum, to be recovered in any of the modes in which the amount of any note or debt due from any bank may now be recoverable by law, any thing herein contained to the contrary notwithstanding.

4. *And be it further enacted*, That every bank which shall avail itself of the provisions of this act, shall so regulate its loans and discounts as that the amount of its outstanding debt on the first of January, eighteen hundred and thirty-nine, shall not exceed the amount of its debt outstanding on the first of January eighteen hundred and thirty-eight: *Provided however*, That this section shall not affect any bank that shall, before the first mentioned day, *bona fide* have resumed specie payments.

5. *And be it further enacted*, That the banks of this commonwealth during the suspension of specie payments, shall furnish to the executive once in every two months, a statement of their condition, agreeably to the provisions of the sixth section of the act establishing general regulations for the incorporation of banks, passed the twenty-second of March, eighteen hundred and thirty-seven, and the said statement shall be published.

6. *And be it further enacted*, That it shall be the duty of the several chartered banks of this state, now in operation, to issue bills or notes of the denomination of one dollar and two dollars, to an amount not less than two nor more than four per centum upon their respective capitals, until the first day of April, eighteen hundred and thirty-nine; after which, this authority shall cease and determine; and if any such bank shall thereafter issue, re-issue, or pay out, or offer to pay or circulate any such note or bill, every such bank shall incur and be liable to the same pains and penalties as if this act had not passed; and every such note or bill so to be issued may be signed by any clerk or offi-

Forfeitures already incurred remitted.

Amounts of notes or debts recoverable as heretofore.

Notes receivable for taxes.

Public deposits where to be made.

Dividends limited.

What interest recoverable on failure to pay specie.

See post. ch. 107, § 6.

Loans and discounts limited.

State of bank during suspension to be reported to executive.

Acts 1836-7, § 6, p. 64.

Banks authorized to issue notes under five dollars.

Amount of issue, and how long to continue.

Penalty for issuing such notes after period limited.

Notes how authenticated.

Acts prohibiting issue of small notes suspended.

Damages recoverable for failure to redeem notes in specie.

When power to issue small notes revoked.

Statement of kind and amount of notes in circulation.

Annual state of bank to be reported.

Statement to be laid before legislature.

Act staying executions extended.

Banks liable to penalties for failing to redeem small notes.

Commencement.

Forfeitures and penalties on savings institutions for issuing small notes, &c.

How recoverable.

cer of the respective banks who may be appointed for that purpose by the board of directors, and shall be as binding on the banking company as if signed by the president and cashier: *Provided however,* That nothing herein contained shall be so construed as to repeal any provision of the several acts prohibiting the issuing and circulation by the banks of small notes, but only to suspend until the period above stated; so much thereof as may prohibit the emission and circulation of the notes or bills in this section mentioned: *And provided also,* That if any bank shall fail to pay in specie any note issued by it in virtue of this section, when duly presented for payment, it shall be lawful for the holder of any such note or notes to recover the amount thereof, with twenty-five per cent. damages on the same, by warrant before a justice of the peace: *And provided moreover,* That whenever the banks aforesaid shall resume the payment in specie of all of their notes, the power given to them by this section to issue notes of the denomination of one and two dollars, shall, within one hundred and twenty days thereafter cease and determine.

7. *Be it further enacted,* That it shall be the duty of said banks in making the statement of their condition herein before required to be made to the executive, to furnish also a statement shewing the amount of each denomination of notes which they may have in circulation.

8. *And be it further enacted,* That the banks of this commonwealth which avail themselves of the benefits of this act, shall annually make to the executive a statement of their condition on the first Monday in December, agreeably to the provisions of the sixth section of the act establishing general regulations for the incorporation of banks, passed the twenty-second of March, eighteen hundred and thirty-seven, for the purpose of being laid before the general assembly at the commencement of their session.

9. *Be it further enacted,* That the act, entitled, "an act to stay the proceedings on executions, trust deeds and other demands in cases of refusal to receive bank notes," passed June twenty-second, eighteen hundred and thirty-seven, be, and the same is hereby extended to the first day of April, eighteen hundred and thirty-nine, unless the banks of this commonwealth shall, prior thereto, resume the payment of all their notes in specie: *Provided however,* That nothing in this section contained shall be so construed as to protect the banks from any penalties imposed by this or any other act for refusing to pay in specie, notes of a less denomination than five dollars.

10. This act shall be in force from and after the passage thereof.

CHAP. 107.—An ACT to prohibit more effectually the circulation of small notes.

(Passed April 3, 1838.)

1. *Be it enacted by the general assembly,* That if any savings society or institution, whether incorporated by the laws of this commonwealth or not, shall, after the first day of May next, issue any certificate of deposit, note or bill, whether printed or otherwise, for a less sum than five dollars, every such society or institution, if incorporated, shall thereby forfeit its charter; and if not incorporated, shall forfeit and pay for every offence the sum of five hundred dollars, to be recovered by action of debt in any court of record, one half to the use of the commonwealth, and the other half

to the informer; and whether incorporated or not, every such society, by whatever name styled, shall forfeit all right to sue, and be disabled from maintaining any action whatever, at law or in equity; and the forfeiture or disability thereby incurred, may be proved under the plea of the general issue, or payment, in any suit instituted by such institution or society, and shall be a bar to any recovery in such suit.

2. And be it further enacted, That if any such savings institution or society shall heretofore have issued any note, bill, or certificate of deposit, contrary to the provisions of the acts to amend "an act more effectually to prevent the circulation of notes emitted by unchartered banks," and "an act to amend and explain the same," passed the third of March, eighteen hundred and twenty-one, and shall within three months from the passage of this act, withdraw from circulation all such notes or bills, every such institution or society shall be relieved from the penalties of the acts aforesaid.

3. And be it further enacted, That from and after the first day of July next, it shall not be lawful for any bank, or the officer of any bank, incorporated by the laws of this state, to pay any check or draft, whether now in existence, or which shall be hereafter made, for the payment of any sum less than five dollars, unless such check be wholly written, and not printed or engraved. And if any bank, or any officer thereof, shall, after the period aforesaid, pay any check or draft, of which the whole or any part shall be printed or engraved, for a less sum than five dollars, the bank or banking company, or the officer thereof so offending, shall for every such offence forfeit and pay the sum of one hundred dollars, to be recovered by action of debt in any court of record having jurisdiction of the case, by any person who will sue for the same, or by the commonwealth, for the use of the literary fund.

4. And be it further enacted, That if any person or corporation, from and after the passage of this act, shall emit any note, bill, draft, order, certificate of deposit, check or other token, and if such person or corporation, after the first day of May next, shall pass any such note, bill, draft, certificate of deposit, check or other token, of which the whole or any part shall be printed or engraved, and whereby a less sum than five dollars shall be required to be paid, either in current money or in notes, or in any other manner whatever, or shall tender in payment of any debt, for any goods, chattels or property, purchased or agreed to be purchased, or in any other manner whatever shall offer to pass or circulate any such check, draft or order, as is in this and the preceding section described and prohibited, and whether the same shall have been made or issued before or after the passage of this act, or any such certificate of deposit, note or bill, of any savings society or institution as is described and prohibited in the first section of this act, whether the same shall have been made or issued before or after the passage of this act, every person so offending shall forfeit and pay three times the amount specified in such certificate of deposit, bill, note, order, draft or check, to the holder thereof, to be recovered by warrant before any justice of the peace of the town or county in which the drawer or maker of the same shall reside, or of any adjoining county, and the constables of such adjoining counties shall have power to serve warrants for the purposes aforesaid, out of their respective counties and districts, any law to the contrary notwithstanding. And such

Penalty on merchants and tavern keepers.

person so emitting or passing as aforesaid, if a tavern keeper or merchant, shall moreover forfeit his license, and be incapable of taking out another for the space of one year; provided such forfeiture shall not be incurred for any act of emitting or passing as aforesaid before the first day of June next.

Commonwealth's attorneys to sue for penalties.

5. And be it further enacted, That it shall be the duty of the attorneys for the commonwealth in the circuit superior courts of law and chancery, to institute actions of debt for all penalties imposed by this act, or the act to amend "an act more effectually to prevent the circulation of notes emitted by unchartered banks," and the "act to amend and explain the same," passed the third of March, eighteen hundred and twenty-one, against all and every person or persons whatsoever, whom they may be informed, or have reason to believe guilty of violating any of the provisions thereof; and it shall be the duty of every commissioner of the revenue, sheriff or constable, to give to the said attorneys information of all violations of the said acts, and the names of the offenders, so far as such commissioners, sheriffs or constables may have been informed, or have reason to believe. Every such suit may be instituted to the next term of the court having jurisdiction thereof, shall be docketed without any rules having been taken therein, and shall be tried at the same term, provided the process shall have been served ten days previously. No exception shall be taken to the declaration, provided the same shall plainly and in substance state the cause of action so as to apprise the defendant of the act or fact with which he is charged; and no plea shall be admitted except the general issue, under which the defendant may make any defence which might otherwise have been specially pleaded; and if said plea shall be entered, a jury shall be sworn to enquire of the debt or penalty demanded; and in either case, if there be a verdict for the commonwealth, a fee of twenty dollars shall be taxed for the attorney.

Duty of commissioners of the revenue, of sheriffs and constables.

Suits when to be brought and tried.

Exceptions to declaration not allowed.

What pleas admissible.

Attorney's fee.

Appeals, writs of error or supersedeas.

Proviso.

Provided, That nothing herein contained shall be construed as to repeal the acts before recited, in respect to any offence committed or penalty incurred before the passage of this act, or to prevent the recovery of any penalty which has been heretofore or may be hereafter incurred under or by virtue of the said acts, in the mode therein prescribed.

When liable to ten per cent. interest for failure to pay specie.
See ante, ch. 106, § 3.

6. And be it further enacted, That nothing in the third section of the act, entitled, "an act concerning the banks of this commonwealth," passed at the present session, shall be so construed as to render any bank liable to the payment of ten per centum interest, unless such bank shall after the first day of August next declare a dividend, and shall not previously have *bona fide* resumed the payment of all its debts in specie.

Act to be given in charge to grand juries.
Penalties imposed how recoverable.

7. Be it further enacted, That this act shall be given in charge to the grand juries of the circuit and county courts, and all penalties herein imposed shall be likewise recoverable by indictment or information, as in cases of misdemeanor.

Commencement.

8. This act shall be in force from its passage.

CHAP. 108.—An ACT prescribing certain general regulations for the incorporation of savings institutions, societies or banks.

(Passed March 24, 1838.)

1. *Be it enacted by the general assembly,* That all savings institutions, societies or banks, which may hereafter be incorporated, shall be subject to and governed by the provisions and enactments of this act, as fully and effectually, to all intents and purposes, as if the same were repeated and declared in the act incorporating such institution, society or bank, unless there shall be inserted in some future act of incorporation an express provision to the contrary.

2. *And be it further enacted,* That savings institutions, societies or banks, under the name and style set forth in the act of incorporation, shall have perpetual succession, and be capable in law to hold and dispose of property, to sue and be sued, plead and be impleaded, answer and defend and be answered and defended in courts of law or equity, or in any other place whatsoever, and to make, have and use a common seal, and the same to change and renew at pleasure.

3. *And be it further enacted,* That the seven persons first named in the act of incorporation shall constitute the first board of directors of savings institutions, societies or banks, and shall continue as such until the first Thursday of January ensuing the act of incorporation, and until their successors shall be elected; and there shall be annually elected at a general meeting of the members of the savings institution, society or bank, on the said first Thursday of January thereafter in each year, not less than seven nor more than nine directors to manage the affairs of the savings institution, society or bank, who shall continue in office one year, and until their successors be elected. The board of directors, or a majority of them, for the time being, shall elect one of their own body president, and in the case of the happening of any vacancy in the board of directors, either by death, removal, resignation, refusal to act, or in any other manner, such vacancy may be filled by the remaining directors, or in such other manner as the by-laws of the said savings institution, society or bank may prescribe. They shall also have power to appoint all such other officers and agents as they shall deem necessary, to conduct the affairs of the savings institution, society or bank, to fix their compensation, and in their discretion, to dismiss them, to take bonds from the officers or agents so employed, with security conditioned in such form as they shall prescribe, for the faithful performance of their several duties, and to secure the savings institution, society or bank from losses; to regulate the manner of making and receiving deposits, the form of certificates of deposit, and the manner of transferring the same; but no certificate of deposit shall be issued for a less sum than five dollars; to provide for the investment of the funds of the savings institution, society or bank, in such manner as they shall deem most safe and beneficial; to provide for and regulate the admission of members and furnish proof of such admission; to provide for paying all necessary expenses, and for conducting the business of the institution, society or bank, and generally to pass all such by-laws as shall be necessary to the exercise of said powers, and of the other powers vested in the savings institution, society or bank:

Provided, That all such by-laws as shall be made by the directors may be repealed by a majority of the members assembled.

Regulations of act
to govern future
companies.

General corporate
powers.

First board of di-
rectors.

Annual election of
directors.

Their number;
term of office.

President how
elected.

Vacancies sup-
plied.

Power to appoint
officers, fix their
pay and dismiss
them.

Bonds of officers.

Power to regulate
deposits.

Investment of
funds.

Admission of
members.

Payment of ex-
penses.

By-laws.

Savings Banks.

at any annual or general meeting called in pursuance of any by-law made for the purpose; and a majority of the members may at any annual or general meeting pass such by-laws, which shall be binding upon the directors: *Provided*, That such by-laws shall not be contrary to the laws of this state or of the United States.

**Power to receive
and invest depo-
sites.**

4. *And be it further enacted*, That any savings institution, society or bank, shall be capable of receiving from any person or persons, any deposite or deposites of money, and that all moneys so received, shall be invested in stocks or other securities at the discretion of the directors, and in the manner deemed most safe and beneficial: *Provided*, That such investment of the funds of the savings institution, society or bank, shall be in the manner provided for in the by-laws; and that no director or member shall be liable in his person or property for any debts, contracts or engagements of the said savings institution, society or bank, but that the money, property, rights and credits of said savings institution, society or bank, and nothing more, shall be liable for the same.

**Directors and
members exoner-
ated from liability
for debts, &c.
Liability of insti-
tution.**

**Restricted in pur-
chasing and dis-
counting.**

5. *And be it further enacted*, That it shall not be lawful for any savings institution, society or bank to purchase any bond, bill, mortgage, deed of trust, or other security for the payment of money or other valuable thing which may be then due and payable, for a less sum than the full amount thereof, with all the interest that may be due thereon, or to purchase or discount any debt or claim to become due, at a rate of discount or interest exceeding the rate of one half of one per centum for thirty days; and all contracts which may be made contrary to the foregoing provision, shall be utterly null and void.

**Committee of
examination.**

Their duty.

Dividends.

**Deposites how re-
coverable.**

**Interest on judg-
ments.**

6. *And be it further enacted*, That it shall be the duty of the directors, at least once in every six months, to appoint from the members of every savings institution, society or bank, five competent persons as a committee of examination, any three of whom may act, whose duty it shall be to investigate the affairs of said savings institution, society or bank, and to make and publish a report thereof in one or more of the newspapers printed in the town or county in which it may be situated; and in the event of there being no newspaper printed in said town or county, then it shall be posted at the door of the courthouse of the county on a court day; and it shall be the duty of the directors, if the by-laws of the said institution, society or bank shall require it, on the first day of January in each year, to make and declare a dividend of the interest and profits of the said savings institution, society or bank, after paying its expenses, and the same to pay over unto the stockholders or their legal representatives, if demanded.

7. *And be it further enacted*, That if at any time any savings institution, society or bank shall fail or refuse to pay to any depositor, after ten days notice, any sum which may be justly due, after the same shall have been demanded, within the usual hours of doing business, of such savings institution, society or bank, the person or persons injured by such failure, may obtain judgment for the amount due, on motion, in any court of record, or by warrant before any justice of the peace having jurisdiction thereof, served in writing on the president, or any director, or treasurer of such savings institution, society or bank. Every judgment so entered, shall bear an interest of ten per centum per annum on the sum due from the date of the serving of the notice or warrant, until paid,

and the execution shall issue accordingly, whether such interest be expressed in the judgment or not.

8. *And be it further enacted,* That nothing in this act contained shall be so construed as to prevent the general assembly at any time from altering, modifying or annulling the charter of any savings institution, society or bank, granted under the provisions of this act.

9. This act shall be in force from its passage.

Commencement.

CHAP. 109.—An ACT amending the law concerning thefts, forgeries, and the destruction and concealment of wills.

(Passed March 17, 1838.)

1. *Be it enacted by the general assembly,* That if any persons shall be convicted of any of the offences mentioned in the first section of the act, entitled, "an act reducing into one the several acts for punishing persons guilty of certain thefts and forgeries, and the destruction or concealment of wills," passed February the twenty-third, eighteen hundred and nineteen, it shall be lawful to sentence such person to confinement in the penitentiary for a term not less than five years, any law to the contrary notwithstanding.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 110.—An ACT to prevent trespasses by non-residents in the county of Monongalia.

(Passed February 29, 1838.)

1. *Be it enacted by the general assembly,* That all the provisions of the act, entitled, "an act to prevent trespasses by non-residents in certain counties," passed January the thirtieth, eighteen hundred and thirty-seven, shall be and the same are hereby made to apply to the county of Monongalia, and shall have the same force and effect as if the name of said county had been inserted in said act.

2. This act shall be in force from the first day of April next.

Commencement.

CHAP. 111.—An ACT to constitute a portion of Rivanna river a lawful fence.

(Passed March 21, 1838.)

1. *Be it enacted by the general assembly,* That between the proprietors and occupants of lands lying on both sides of the Rivanna river, from its junction with the James river to the Albemarle county line, the bed or channel of said river shall be considered as constituting a lawful fence; and if any horses, mules, cattle, hogs, sheep or goats belonging to any of said proprietors or occupants, shall cross the said Rivanna river, and trespass on the adjoining lands, the owner of such horses, mules, cattle, hogs, sheep or goats, or either, or any one of them, shall, for the first trespass so committed, make reparation to the party injured for the true value of the damage he or she shall sustain; and for every trespass afterwards, double damages, to be recovered with costs in any court of record: *Provided*, That for the third trespass for any of the beasts aforesaid crossing said river, and trespassing on the adjoining lands as aforesaid, it shall be at the election of the injured party to sue for his damages, or to kill and destroy the beast or beasts so trespassing, without being answerable for the same: *And provided* also, That before the party injured shall have the right to kill the beast or beasts so trespassing, he shall give, or cause to be given,

What part of Rivanna river to be lawful enclosure.
See acts 1836-7, pp. 49, 50.

Remedy against owners of beasts trespassing.

When party injured may sue, or destroy beasts.

Notice to be given.

Inspections—Tobacco.—Preservation of Oysters and Terrapins.

to the owner thereof, at least one day's notice in writing of the fact of said trespass or trespasses.

Commencement.

2. This act shall be in force from and after the first of July next.

CHAP. 112.—An ACT to establish an inspection of tobacco at Charlottesville.

(Passed March 12, 1838.)

Inspection of tobacco established near Charlottesville.

1. *Be it enacted by the general assembly,* That an inspection of tobacco shall be and is hereby established on the lands of Opie Norris and Charles Everette, lying on the north side of the public road leading from the town of Charlottesville to a public landing on the Rivanna river, at the place usually called and known by the name of "Moore's Ford," under the like rules and regulations as are prescribed by law for other inspections: *Provided, however,* That if the quantity of tobacco inspected at said inspection shall not be sufficient to pay the usual charges and the inspectors' salaries, the deficiency shall not be paid by the public.

Commencement.

2. This act shall be in force from its passage.

CHAP. 113.—An ACT to revive the inspection of tobacco in Meadesville, in the county of Halifax.

(Passed April 4, 1838.)

Inspection of tobacco at Meadesville revived.

Regulations.

1. *Be it enacted by the general assembly,* That the inspection of tobacco at Meadesville, in the county of Halifax, be and the same is hereby revived and re-established under the like rules and regulations as are prescribed by law for other inspections: *Provided always,* That if the quantity of tobacco inspected at said inspection shall not be sufficient to pay the usual charges and the inspectors' salaries, the deficiency shall not be paid by the public.

Commencement.

2. This act shall be in force from the passing thereof.

CHAP. 114.—An ACT to prevent the destruction of oysters and terrapins in certain waters of this commonwealth.

[Passed February 5, 1838.]

Non residents prohibited catching oysters and terrapins in Nansemond and Norfolk.
See acts 1836-7, pp. 54, 55.

1. *Be it enacted by the general assembly,* That the provisions of the act, entitled, "an act to prevent the destruction of oysters and terrapins in certain waters of this commonwealth," passed March fifteenth, eighteen hundred and thirty-seven, be and the same are hereby extended to the waters of the counties of Nansemond and Norfolk, and within the jurisdiction thereof.

Penalty for selling oysters to masters of vessels within certain periods.

2. *And be it further enacted,* That if any person permitted by the first section of this act to take or catch oysters or terrapins in the waters of Nansemond or Norfolk, shall sell oysters or terrapins to any master of a vessel or skipper, or commander of any vessel or craft, between the first day of May and the first day of October in any year, every person so offending, for every such offence, shall forfeit and pay the sum of twenty dollars, to be recovered by warrant before any justice of the peace of any county adjoining the water in which the offence was committed, or in which the defendant may reside, the one half to be paid to the informer, and the other half to the commonwealth for the benefit of the literary fund; and every master or commander of any vessel or craft so permitted as aforesaid, shall be subject to the like penalty, recoverable in the like manner.

Penalty on masters of vessels.

How recoverable.

3. *And be it further enacted*, That if any slave shall offend against the provisions of this act, and it shall appear that such slave was not acting with the knowledge or by the direction of his or her master, mistress or employer, such slave shall, on conviction before a justice of the peace of any county having jurisdiction as aforesaid, receive thirty-nine lashes on his or her bare back.

4. *And be it further enacted*, That no person shall hereafter take or catch oysters at any time from the waters of Ware, Severn, North or Nansemond rivers, and their tributaries, for the purpose of being planted in any other river or water; and every person so offending, for each offence, shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt, indictment, information or presentment in any court of record of the county adjoining the waters in which the offence was committed, or in which the defendant may reside, or be found, one half to the informer, and the other half to the commonwealth for the benefit of the literary fund; and in all actions of debt under this section, bail shall be demanded as of right.

5. This act shall be in force from the passing thereof.

Commencement.

CHAP. 115.—An ACT to amend an act, entitled, “an act to prevent the destruction of oysters and terrapins in certain waters of this commonwealth,” passed March 25th, 1837.

(Passed February 5, 1838.)

1. *Be it enacted by the general assembly*, That the provisions of the act, entitled, “an act to prevent the destruction of oysters and terrapins in certain waters of this commonwealth,” passed March twenty-fifth, eighteen hundred and thirty-seven, be, and the same are hereby extended to the waters of the Chesapeake bay, lying on the western side of the counties of Accomack and Northampton, and within the jurisdiction of the said counties.

Non-residents prohibited catching oysters and terrapins in Accomack and Northampton. See acts 1836-7, pp. 54, 55.

2. This act shall be in force from and after the passing thereof. Commencement.

CHAP. 116.—An ACT to prevent the removal of oysters from the waters in Norfolk county to any other river or waters.

(Passed April 7, 1838.)

1. *Be it enacted by the general assembly*, That it shall not be lawful for any person or persons, at any time hereafter, to catch or take oysters from the waters or rivers in the county of Norfolk, for the purpose of being planted or deposited in any other waters or river; and for every such offence, the person or persons so offending, shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt, indictment, information or presentment in any court of record in the county in which the offence may be committed, or in which the offender may reside or be found, one half to the use and for the benefit of the informer, and the other half for the benefit of the literary fund; and in all actions sued out or instituted under this act, bail shall be demanded as in other cases.

Moving oysters from Norfolk county to replant prohibited.

2. This act shall be in force from its passage. Commencement.

CHAP. 117.—An ACT to amend an act, entitled, “an act to amend an act, entitled, ‘an act to prevent the hauling of seines in the county of Northampton within certain periods annually.’”

(Passed January 25, 1838.)

1. *Be it enacted by the general assembly*, That it shall not be lawful for any person or persons to haul any seine or seines above

Fishing in Northampton within

certain periods prohibited.

or below the mouths of the different creeks or rivers within the jurisdiction of the county of Northampton, between the first day of June and the first day of September of each year, instead of the fifteenth day of May and the twentieth day of August, as heretofore prescribed by law: *Provided*, That nothing herein contained shall be construed in any manner to lessen or diminish the penalties prescribed for the violation of the act passed March the twenty-fifth, eighteen hundred and thirty-seven, entitled, "an act to amend an act, entitled, 'an act to prevent the hauling of seines in the county of Northampton within certain periods annually.'"

Commencement.

2. This act shall be in force from and after the passing thereof.

CHAP. 118.—An ACT to protect the proprietors of fishing shores in the county of King George.

(Passed March 21, 1838.)

Preamble.

Whereas it is represented to the general assembly, that difficulties exist and much injury has been sustained in the county of King George by the proprietors of fishing shores on the Potomac river, for want of a law making penal all violations of their rights:

Bounds of adjoining fisheries how established.

1. *Be it therefore enacted*, That hereafter it shall be lawful for the proprietors or occupiers of coterminous fishing shores on the Potomac river in the county of King George, to apply to the court of said county, which is hereby empowered, (written notice being first given to the proprietor or occupier of the adjoining shore,) to appoint two commissioners to represent the two parties, who, with a third commissioner, chosen by those whom the court shall appoint, shall designate by appropriate land marks or otherwise, both the ebb and the flood hauls of the adjoining fishing shores; and thereafter it shall not be lawful for any persons engaged in fishing either of said shores, so to lay out their seine within the designated haul of the adjoining shore, as to interfere with their haul in any manner whatsoever, under a penalty of fifty dollars for each offence, to be recovered of the offending proprietor or occupier of the shore, or his agent, by presentment in the court of said county, to be prosecuted at the suit of the commonwealth for the benefit of the literary fund.

Penalty for violating bounds.

How recoverable.

2. *Be it further enacted*, That if any other than an actual inhabitant and resident of this state shall violate the provisions of the foregoing section of this act, any justice of the peace in the county aforesaid, upon affidavit made and subscribed in his presence, shall require the sheriff or any other officer of said county to summon the offender to appear before him or some other justice of the peace, and such justice, after hearing evidence, being satisfied that there is just cause of action, shall require the offender to enter into a recognizance with sufficient surety to appear at the next term of the court of said county, conditioned to answer an indictment for the same. If the offender shall fail to enter into such recognizance, he shall be committed to the jail of said county; but at any time before trial, the sheriff may and shall take bail and return the bail bond to court and discharge the offender.

Bail allowed.

Commencement.

3. This act shall commence and be in force from and after the first day of April next.

Non residents offending how proceeded against and punished.

CHAP. 119.—An ACT directing a survey of the Little Kanawha river.

(Passed February 20, 1838.)

1. *Be it enacted by the general assembly,* That the board of public works be, and they are hereby directed to appoint a competent engineer to make a survey of the Little Kanawha river from its mouth to the Bulltown salt works, and report to the said board his opinion of the practicability and cost of a lock and dam navigation thereon, and of such other mode of improvement as he may deem more advisable.

2. This act shall be in force from its passage.

Commencement.

CHAP. 120.—An ACT directing a survey of a route for a road from the Tennessee line to the Pound gap of Cumberland mountain.

(Passed March 30, 1838.)

1. *Be it enacted by the general assembly,* That the board of public works be, and are hereby instructed to employ a competent engineer to survey a route for a road from the Tennessee line by way of Big Moccasin gap and the residence of Peter Neal, to Guest's station in the county of Russell, and thence to its intersection with the Kentucky road at the Pound gap of Cumberland mountain, and to report to said board an estimate of the probable cost of said road.

2. This act shall be in force from its passage.

Commencement.

CHAP. 121.—An ACT to authorize a survey of a road across the Calf Pasture mountain.

(Passed March 30, 1838.)

1. *Be it enacted by the general assembly,* That the board of public works be and are hereby instructed to employ some suitable person conveniently situated for such purpose, to survey a route for a road across the Calf Pasture mountain, commencing on the lands of David Kincaid on the Cow Pasture river, and intersecting the Warm spring and Harrisonburg turnpike at or near Deerfield in Augusta county, and to make report to said board of the probable cost of such road; and the said board shall allow the person so appointed such compensation as they may deem reasonable, not exceeding three dollars per day.

2. This act shall be in force from its passage.

Commencement.

CHAP. 122.—An ACT to provide for the survey of a route for a road from the Warm springs to the Kanawha turnpike.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That the board of public works be and they are hereby instructed to employ some competent person to survey a route for a road from the Warm springs in the county of Bath, by Frankfort in Greenbrier county, to a suitable point of intersection with the Kanawha turnpike, and to report to said board an estimate of the probable cost of said road.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 123.—An ACT to amend the act, entitled, “an act authorizing the survey of a route for a road from Moorfield to the Warm springs or to Huntersville.”

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That the board of public works be and are hereby authorized and required to direct the Survey of road from Moorfield to Warm springs or to Huntersville.

engineer who may be appointed by them to survey a route for a road from Moorfield to the Warm springs or Huntersville, agreeably to the act authorizing the same, passed March the twenty-second, eighteen hundred and thirty-seven, to commence such survey at some point of the North-western turnpike at or near Romney, and to continue thence, by Moorfield and Franklin, to the Warm springs or to Huntersville.

Commencement.

2. This act shall be in force from its passage.

CHAP. 124.—An ACT directing the survey of a road from Huntersville to the Cheat mountain turnpike.

(Passed April 7, 1838.)

Survey of road from Huntersville to Cheat mountain turnpike.

1. *Be it enacted by the general assembly,* That the board of public works be and they are hereby instructed to employ a competent engineer to survey a route for a road from Huntersville in Pocahontas county, by way of the head waters of the Tygart's valley river, to Jonathan Hutton's on the Cheat mountain turnpike, and to report to the board the practicability, the most appropriate mode, and the probable cost of making the road; and said board shall also direct their principal or some other engineer to survey and locate a route for a road from Huntersville to intersect the Kanawha turnpike road either at the town of Covington or at Callaghan's tavern in Alleghany county, and report thereon in kind and manner as above required.

Commencement.

2. This act shall be in force from its passage.

CHAP. 125.—An ACT to provide for the survey of a road from Morgantown to a point on the North-western road at or near Clarksburg.

(Passed March 30, 1838.)

Survey of a road from Morgantown to North-western turnpike.

1. *Be it enacted by the general assembly,* That the board of public works be and they are hereby instructed to appoint a competent engineer to survey the most practicable route for a road from Morgantown to a point on the North-western turnpike road at or near the town of Clarksburg, and to report to said board the kind of road most eligible, and the probable cost thereof.

Commencement.

2. This act shall be in force from its passage.

CHAP. 126.—An ACT to authorize a survey of a road from a point at or near the German Settlement to a point on the Morgantown and Beverley road.

(Passed April 6, 1838.)

Survey of road from North-western turnpike to the Morgantown and Beverley road.

1. *Be it enacted by the general assembly,* That the board of public works be and are hereby instructed to employ a competent person to survey a route for a road from some point on the North-western turnpike at or near the German Settlement in Preston county, by Kingwood, to a suitable point on the Morgantown and Beverley road on the east side of Laurel hill, and to report to said board an estimate of the probable cost of said road.

Commencement.

2. This act shall be in force from its passage.

CHAP. 127.—An ACT concerning public roads.

(Passed March 31, 1838.)

Counties not accepting road law of 1835, subject to law of 1839 and its amendments.

1. *Be it enacted by the general assembly,* That the several counties of this commonwealth, the courts of which have adopted, and subsequently dispensed with the act passed March the third, eight-

teen hundred and thirty-five, entitled, "an act to provide for the opening and repair of the public roads in this commonwealth," or shall hereafter do so, and which, by the sixth section of the act amending the said act, passed March the thirtieth, eighteen hundred and thirty-seven, are or will be subject to the operation of the act of eighteen hundred and nineteen, concerning public roads, and for establishing public landings, shall be entitled to the benefit of all the acts amending the aforesaid act of eighteen hundred and nineteen, prior to the passage of the act of eighteen hundred and thirty-five; and the public roads in such counties shall be opened and kept in repair, in conformity with the provisions of the said act of eighteen hundred and nineteen, and of all the aforesaid acts amendatory thereof: *Provided*, That the courts of the said counties shall have power again to adopt the said act of eighteen hundred and thirty-five, and the act amending the same, passed in eighteen hundred and thirty-seven, if to them it shall seem proper.

2. *Be it further enacted*, That it shall be lawful for the several county courts of this commonwealth to reject or dispense with the provisions for the appointment of commissioners of roads, as contained in the first and second sections of the aforesaid act of eighteen hundred and thirty-five, and to retain the mode of appointing reviewers, as prescribed in the act of eighteen hundred and nineteen, after the whole number of acting justices of the county shall have been previously summoned for that purpose, although a majority of such justices be not present in court: *Provided*, That no determination of any county court by authority of this act shall vitiate or impair any contract or engagement made and existing in relation to the construction or repair of the public roads at the time of such decision of the court: *And provided further*, That it shall not be necessary for a surveyor or overseer of any precinct of public road to procure a warrant of impressment for that purpose, if he can by voluntary agreement obtain the use of all necessary teams and implements for working on his precinct of road, or the necessary materials for its construction or repair. But in all cases the value of such teams, implements or materials shall be ascertained in the mode provided by the law under which the said surveyor shall be acting, and the amount thus fixed shall be allowed by the court.

3. This act shall be in force from its passage.

Power again to
adopt law of 1835
and 1837.

Power to dispense
with commis-
sioners of roads, and
appoint reviewers.

Existing contracts
not to be affected.

Authority to dis-
pense with war-
rant of impres-
sment for teams,
&c.

Value of teams,
materials, &c.
how ascertained.

Commencement.

CHAP. 128.—AN ACT to amend the twenty-first section of the act concerning public roads, and for establishing public landings, so far as relates to the county of Loudoun.

(Passed April 3, 1838.)

1. *Be it enacted by the general assembly*, That it shall and may be lawful for the county court of the county of Loudoun, in pursuance of the powers given by the twenty-first section of the act, entitled, "an act to reduce into one the several acts concerning public roads, and for establishing public landings," passed February second, eighteen hundred and nineteen, to authorize the erection and to direct the discontinuance of gates across public roads, after the whole number of the acting magistrates of the county shall have been previously summoned, although a majority thereof may not be present, or concurring in the erection or discontinuance of such gates.

Power to erect and
discontinue gates
across roads in
Loudoun.

2. This act shall be in force from its passage.

Commencement.

CHAP. 129.—An ACT to repeal the act, entitled, “an act to provide for the opening and repair of the public roads in this commonwealth,” and the act amendatory thereof, passed March 30th, 1837, so far as said acts relate to the county of Monroe.

(Passed April 2, 1838.)

Roads in Monroe
county to be open-
ed and repaired
according to laws
prior to 1835.

Existing contracts
not to be impaired.

* Other counties
were inserted in
amendment by the
senate, which was
disagreed to.

Impressments for
teams, materials,
&c. dispensed
with.

Such materials
now acquired.

Commencement.

1. *Be it enacted by the general assembly,* That the act, entitled, “an act to provide for the opening and repair of the public roads in this commonwealth,” passed March the third, eighteen hundred and thirty-five, and the act amendatory thereof, passed March the thirtieth, eighteen hundred and thirty-seven, be and the same are hereby repealed, so far as the same have been or may be applied to the county of Monroe; and henceforth the public roads within the said county shall be opened and kept in repair according to the laws in force previous to the passage of the aforesaid acts: *Provided*, That nothing hereinafter contained shall be so construed as to impair any contract or contracts which the *courts of any of the aforesaid counties** may have made for the opening and repair of roads under the act passed March the third, eighteen hundred and thirty-five, and the act amendatory thereof, passed March the thirtieth, eighteen hundred and thirty-seven.

2. And whereas doubts have arisen in regard to the true construction of the seventh section of the act, entitled, “an act to reduce into one the several acts concerning public roads, and for establishing public landings,” passed February second, eighteen hundred and nineteen: For remedy whereof, *Be it enacted*, That nothing in the said seventh section shall be so construed as to make it necessary for any surveyor of a public road to procure from a magistrate a warrant of impressment in cases where he can, with the voluntary consent of the owner, procure the necessary stone, timber, ploughs, carriages, draft horses or oxen, with their gear and driver, to be employed in making or repairing any road or causeway on that part of the public road of which he is the surveyor.

3. This act shall be in force from its passage.

CHAP. 130.—An ACT requiring certain annual reports from the directors of the Cumberland gap road and other like public roads.

(Passed April 7, 1838.)

Reports required
to be made by di-
rectors of state
and county roads
to board of public
works.

When to be made.

What to contain.

1. *Be it enacted by the general assembly,* That it shall be the duty of the commissioners, directors, superintendents or other agents, who have been or may be appointed in pursuance of law, to superintend the construction of the Cumberland gap road and other roads of like character, undertaken partly on state account, and partly by county courts or individual subscriptions, to transmit a report to the board of public works, annually, by the first Monday in December, containing the following information, and such other information as the said board may call for, viz: the measures taken for the commencement and prosecution of the work, and the contracts entered into in relation thereto; the amount of money contributed by the courts of the respective counties, and how applied; the amount of private contributions in each county, in labour or money, and the rate per diem allowed for such labour; whether the road is made, or is intended to be made upon the location designated by a state engineer and in conformity with specifications furnished by him; if not, shewing its dimensions and mode of construction; the length of road finished, and the cost of the same per

mile; the amount paid for salary and compensation of directors, clerk, treasurer and other officers; a statement of the receipts and expenditures and the balance of money on hand.

2. This act shall be in force from its passage.

Commencement.

CHAP. 131.—An ACT to amend the act, entitled, “an act to provide for the construction of a road from the Pound gap of Cumberland mountain on the Kentucky line, to the Cumberland gap road.”

(Passed March 6, 1838.)

1. *Be it enacted by the general assembly,* That when it shall be satisfactorily shewn to the auditor of public accounts, that the subscriptions both by individuals and by the courts, made in pursuance of the act, entitled, “an act to provide for the construction of a road from the Pound gap of Cumberland mountain on the Kentucky line, to the Cumberland gap road,” passed March the twenty-fifth, eighteen hundred and thirty-seven, amount in the aggregate to the sum of two thousand dollars, then three thousand three hundred and thirty-three dollars of the appropriation made by said act shall be paid agreeably to the terms therein prescribed, and the residue of said appropriation shall be paid in like manner, when the balance of the subscriptions of individuals and the courts specified in such act, shall have been raised.

2. This act shall be in force from its passage.

Subscription by
state to Cumber-
land gap road, how
to be paid.

Commencement.

CHAP. 132.—An ACT to authorize the county courts of the counties of Botetourt, Tazewell, Giles, Russell, Mercer, Scott and Lee to borrow money for certain purposes.

(Passed January 22, 1838.)

1. *Be it enacted by the general assembly,* That in order to enable the county courts of the counties of Botetourt, Tazewell, Giles, Russell, Scott, Mercer and Lee, more effectually to raise the several sums of money necessary to be provided by them to complete the road from Price's turnpike in the county of Botetourt, to Cumberland gap, it shall and may be lawful for each of said courts to borrow from time to time, and upon such terms as may be agreed on, any sum or sums of money, not exceeding in the aggregate two fifths of the computed cost of that portion of said road lying within the county, and to provide for the payment of such loan or loans, and of the interest thereon, by such assessment and levy as are authorized by the several acts concerning said road: *Provided,* That no such loan or loans shall be negotiated, unless all the acting justices of the county shall have been duly summoned, to take into consideration the propriety thereof, and unless a majority of said justices shall actually sanction such loan or loans.

Power to certain
counties to borrow
money to complete
Cumberland gap
road.

County levies
therefor.

Justices to be
summoned.

2. *Be it further enacted,* That the county court of Mercer county shall be, and is hereby authorized to proceed to the appointment of a director to superintend, and the board of directors shall proceed to the appointment of a treasurer to receive and disburse the money under the direction of the board, in the manner provided by the several acts passed the fifth of March, eighteen hundred and thirty-four, and the twenty-first of March, eighteen hundred and thirty-seven; and the said director and treasurer shall be governed in all respects by the provisions of the said acts as the directors and treasurers in the other counties are required to be governed.

Mercer county to
appoint director of
road.

Treasurer to be
appointed.

Their powers and
liabilities.

3. This act shall be in force from its passage.

Commencement.

CHAP. 133.—An ACT to authorize slight changes in the location of the road from Price's turnpike to Cumberland gap.

[Passed March 19, 1838.]

Changes of location in Cumberland gap road authorized.

1. *Be it enacted by the general assembly,* That the directors of the road from Price's turnpike in the county of Botetourt to Cumberland gap, on the dividing line between Virginia, Tennessee and Kentucky, be, and they are hereby authorized to make such slight changes in the present location of said road, within the counties of Giles and Mercer, not varying thereby its general route, as they may deem proper: *Provided*, That the cost of the road shall not thereby be increased, and provided that no new route so selected, shall at any point exceed a distance of three miles from its present location.

Commencement.

2. This act shall be in force from its passage.

CHAP. 134.—An ACT to provide for the construction of a road from Smyth courthouse to the plaster banks.

(Passed March 30, 1838.)

Commissioners for road how appointed.

1. *Be it enacted by the general assembly,* That the county court of Smyth county shall appoint two commissioners, who, together with three other commissioners, who shall be appointed by the board of public works, shall constitute a board to superintend and direct the opening and construction of a road from the courthouse of the said county of Smyth, across Walker's mountain to the plaster banks in the Rich valley. The said road shall be cleared at least twenty-five feet wide, and where digging is necessary, shall in no case be less than fifteen feet wide, and shall be rendered throughout its whole extent suitable for waggons and other wheel carriages, at a grade no where exceeding five degrees.

Subscription by county of Smyth.

2. *Be it further enacted,* That the said court shall be, and they are hereby empowered to raise the sum of five hundred dollars in the year eighteen hundred and thirty-eight, and the like amount in the year eighteen hundred and thirty-nine, to be applied to said road, by an assessment according to the existing laws of the commonwealth: *Provided*, That no assessment shall be made unless a majority of the acting justices of the court shall be present, or unless all the justices shall have been summoned to consider thereof.

Sum appropriated by state how to be paid.

3. *Be it further enacted,* That the sum of three thousand dollars be, and is hereby appropriated from the public treasury, towards the construction of said road. And when the said county court shall have raised and paid over to the said commissioners, or either of them, the sum authorized to be raised by said court in the year eighteen hundred and thirty-eight, and the other conditions hereby rendered previously necessary shall have been complied with, the auditor of public accounts, upon receiving satisfactory evidence of said payment, shall issue his warrant upon the treasury for one half of the aforesaid appropriation, in favour of either of said commissioners; and the other moiety of said appropriation shall be paid in like manner in the year eighteen hundred and thirty-nine.

Commissioners to give bond and security.

4. *Be it further enacted,* That before either of said commissioners shall be authorized to receive any portion of the moneys to be raised by virtue of this act, they shall enter into bond, either jointly or severally, in such penalty, and with such security, as shall be approved by the county court of Smyth county, made payable to

the governor of the commonwealth for the time being, and his successors in office, and conditioned for the faithful application of the moneys which may come into their hands by virtue of this act. The said bond or bonds shall be deposited in the office of the clerk Bond where filed. of said court, and in case of a breach in the condition thereof, suit may be brought thereon, as in like cases of bonds so executed; and the certificate of said clerk shall be exhibited to the auditor of public accounts, shewing that bond or bonds have been given as aforesaid, before the said auditor shall be authorized to issue any warrant on the treasury as aforesaid.

5. *Be it further enacted,* That the said commissioners are hereby empowered to make contracts with any person or persons for constructing said road, to appoint such officers and agents as they may deem necessary, and to direct all the operations connected with the road. They shall be governed, in all respects in the acquisition of the land and materials necessary for said road, by the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies."

6. *Be it further enacted,* That each of said commissioners shall be allowed, out of the moneys which they shall receive by virtue of this act, the sum of two dollars per day for each day he shall be necessarily employed in the duties hereby imposed, the number of days to be ascertained by his oath, made before any justice of the peace of the said county of Smyth. The said commissioners shall render to the said court, whenever required, an account of the manner in which they have expended the moneys which they shall have received by virtue of this act; and the said court, and the board of public works, shall fill any vacancy in the office of commissioner by them appointed.

7. *Be it further enacted,* That so soon as the said road shall be completed, it shall be the duty of the county court of Smyth to appoint a superintendent, to be approved of by the board of public works, who shall have the management and direction of said road. The said superintendent shall visit the tollhouse, and settle up the accounts of said road once in every three months, and adopt such other measures as may be just and proper; said superintendent shall have power to cause a toll gate and house to be erected on said road, to appoint a receiver of tolls and fix his compensation. The said county court of Smyth shall also appoint a treasurer, who shall give the requisite bond and security, payable to themselves, whose duty it shall be to collect from the gate keeper, at least once a month, all moneys in his hands; and which receiver shall exact and receive, for the use of said road, the same rate of tolls as are enumerated in the seventeenth section of the act prescribing certain general regulations for the incorporation of turnpike companies.

8. *And be it further enacted,* That no part of the said appropriation shall be applied to the payment of damages claimed by the owners of land condemned for the use of said road; but all such damages, if any shall be awarded, shall be satisfied by the county court of Smyth, as in other cases of county roads: *Provided,* That no tolls shall be collected from citizens of Smyth county for the use of said road. The said road, when completed, shall be under the control and management of the said superintendent, and shall be kept in repair by an adequate force, to be furnished by and at the expense of said county.

9. This act shall be in force from its passage.

Evidence of execution of bond returned to auditor.

Commissioners empowered to contract for road.

To appoint officers.

Acquisition of land and materials.

Compensation to commissioners.

Account of expenditures to be rendered.

Vacancies among commissioners supplied.

Superintendent of road how appointed.

His duty.

Tollhouses, gates and receivers.

Treasurer of road.

Tolls allowed.

Sum paid by state not to be applied to payment of damages.

Damages to be paid by Smyth county.

Citizens of county exempt from tolls.

Road how superintended and repaired.

Commencement.

CHAP. 135.—An ACT to provide for the completion of the road across the Blue Ridge at Simmons's gap.

(Passed April 5, 1838.)

Commissioners for road.

1. *Be it enacted by the general assembly,* That Jacob Rush, John Nicholas and Jonathan Peale, of the county of Rockingham, and John Bococke, Ira Brown and Richard Duke, of the county of Albemarle, be and they are hereby appointed commissioners, a majority of whom may act, to superintend the improvement and completion of the road now used across the Blue Ridge, from the Port Republic road near Sipes's to Harris's mill in the county of Albemarle. The said road shall be cleared at least thirty feet wide, and be made suitable and convenient for a space of twenty feet width throughout its whole length for the passage of wagons and other carriages, and at the lowest practicable grade.

Route.

How constructed.

2. *And be it further enacted,* That the said commissioners be and they are hereby authorized to receive contributions in money only from individuals, and from the county court of each of the counties of Rockingham, Albemarle and Greene, to be applied to the purposes of said road; and the said courts are hereby respectively authorized to provide for the payment of any subscriptions made by or in behalf of them, by a levy to be laid and collected as other county levies. When the said contributions, together with the moneys heretofore applied to said road by said courts, amount to the sum of two thousand dollars, and that amount shall have been actually expended on the road, and the other conditions herein contained shall have been complied with, and these facts shall have been certified to the auditor of public accounts by the commissioners, the said auditor is hereby directed to issue his warrant upon the treasury for the sum hereinafter appropriated, in favour of the treasurer hereinafter authorized to receive the same.

Subscriptions by individuals and counties.

3. *And be it further enacted,* That the sum of one thousand dollars be and is hereby appropriated from the public treasury for the improvement and completion of said road, which shall be paid upon the conditions herein prescribed.

Courts to levy for their quotas.

4. *And be it further enacted,* That one of the said commissioners, to be designated by the county court of Rockingham, shall be the treasurer or receiver of the moneys arising by virtue of this act, and shall pay out the same under the direction of the board of commissioners. Before he shall receive any portion of said moneys, he shall enter into bond, in such penalty and with such security as the said board shall approve, made payable to the governor of the commonwealth for the time being, and his successors in office, and conditioned for the faithful application of the money

To give bond and security.

coming into his hands by virtue of this act. The said bond shall be deposited in the clerk's office of said court, and suit may be brought thereon as in like cases of bonds so executed. The said treasurer shall exhibit to the auditor of public accounts the certificate of said clerk, shewing that such bond has been given, before the said auditor shall issue a warrant on the treasury as aforesaid.

Bond, where filed.

5. *And be it further enacted,* That the said commissioners are hereby empowered to appoint a superintendent to direct and execute the improvement and completion of said road under their control, and the same to remove at pleasure; and also to enter into such contracts in relation to said road as they may deem advisable. They shall account with the county court of Rockingham, when-

Evidence of execution of bond returned to auditor.

Superintendent of road, how appointed.

Power to make contracts.

Accounts to be rendered.

ever required, for the manner in which they have expended the money coming into their hands by virtue of this act; and in case of their refusal or neglect to make a satisfactory account, the commonwealth's attorney for said county is hereby authorized to sue for and recover the said moneys, or such part thereof as may not satisfactorily be accounted for, for the benefit of the fund for internal improvement. The said road, when completed, shall be ^{Road, how to be kept in repair.} under the jurisdiction of the courts of the respective counties in which it shall lie, and shall be kept in repair in like manner with other public roads.

6. *And be it further enacted,* That each of said commissioners ^{Compensation to commissioners.} shall be allowed such compensation, not exceeding one dollar and fifty cents per day for each day he shall be engaged in the performance of the duties herein prescribed, as may be fixed by the said court of Rockingham county, which shall be paid by the treasurer aforesaid out of any funds in his hands, upon the order of the board of commissioners, accompanied by a statement under oath of the number of days such commissioner has been engaged in his duties aforesaid. Any vacancy amongst the commissioners ^{Vacancies among commissioners supplied.} shall be supplied by the county court of Rockingham or Albemarle. ^{Commencement.}

7. This act shall be in force from its passage.

CHAP. 136.—An ACT to provide for the construction of a turnpike road from Staunton to Parkersburg.

(Passed March 16, 1838.)

1. *Be it enacted by the general assembly,* That the board of public works be, and they are hereby authorized and directed to cause to be constructed a turnpike road from Staunton, through the Dry branch gap, to Parkersburg. The said board shall possess, and may exercise all the powers, and shall be subject to all the duties and restrictions in relation to the road herein provided for, as are given to and imposed upon the president and directors of the North-western turnpike road, by the act providing for the construction thereof, passed March the nineteenth, eighteen hundred and thirty-one, except so far as is herein otherwise specially directed. The said road shall be commenced and completed as speedily as the same can be done consistently with a due regard to the interest of the state. It shall no where exceed a grade of four degrees, nor shall be more than twenty feet wide, nor less than fifteen feet, exclusive of side ditches. The principal engineer shall proceed without delay to the performance (in relation to the road herein provided for,) of the duties enjoined upon him by the aforesaid act.

2. *Be it further enacted,* That in order to defray the expense of constructing the said road, the said board of public works be, and they are hereby empowered to borrow on the credit of the state, from time to time, such sums of money not exceeding in the aggregate one hundred and fifty thousand dollars, as may be necessary therefor, agreeably to such provision as may be contained in any general act authorizing loans for purposes of internal improvement, passed at the present session of the general assembly. But if no such act be passed, then the said loan shall be effected upon the terms and conditions prescribed by the aforesaid act of the nineteenth of March, eighteen hundred and thirty-one.

3. This act shall be in force from its passage.

^{Commencement.}

CHAP. 137.—An ACT to amend the act, entitled, “an act further to provide for the construction of the North-western road.”

(Passed February 7, 1838.)

Money for North-western road to be borrowed.

Acts 1833-4, p 104.

Rate of interest.

Commencement.

1. *Be it enacted by the general assembly,* That the president and directors of the North-western turnpike road, be, and they are hereby empowered to borrow such portion of the amount authorized to be borrowed by the act, entitled, “an act further to provide for the construction of the North-western road,” passed February the sixth, eighteen hundred and thirty-four, as has not been raised by them, at any rate of interest not exceeding six per centum per annum.

2. This act shall be in force from its passage.

CHAP. 138.—An ACT concerning the North-western road.

(Passed March 22, 1838.)

Power to establish toll gates and prescribe tolls.

1. *Be it enacted by the general assembly,* That hereafter it shall be lawful for the president and directors of the North-western road to direct any change which they may deem expedient in the location of any toll-gate on said road; to establish other and additional toll-gates, and to prescribe the amount of toll chargeable at the same: *Provided*, That the rate of toll shall not exceed a fair proportion to that now receivable by law at the several gates as now located.

Commencement.

2. This act shall be in force from its passage.

CHAP. 139.—An ACT prescribing regulations for the completion and repair of the North-western turnpike and the Staunton and Parkersburg road.

(Passed April 7, 1838.)

Northwestern road placed under direction of principal engineer. His duty.

Road how let out.

Duty of superintendents of road.

Power to dismiss assistants, labourers, &c.

1. *Be it enacted by the general assembly,* That the finished and unfinished sections of the North-western turnpike road shall be placed under the direction of the principal engineer, who shall have the power, under the sanction and control of the president and directors of said road, to appoint such superintendents as he may deem necessary; to fix their respective salaries and compensation, and prescribe their duties, and to dismiss any of them at any time for good cause. The superintendents shall let out by contract such portions of said road, and upon such terms as may be directed by the engineer; and all contracts made by them, shall be subject to the approval or disapproval of said engineer.

2. It shall be the duty of the superintendents to hire such assistants, mechanics and labourers as the engineer may direct for the purpose of constructing and keeping in repair such portions of said road as shall not be let out on contract, and to procure cattle, provisions, implements and all other articles necessary for the work, and to supervise the details of construction and repairs within their respective limits. They shall keep a journal in the manner to be pointed out by the principal engineer, in which shall be daily entered the items of receipt and expenditure, and which shall at all times be open to the inspection of the engineer.

3. They shall dismiss any assistants, mechanics or labourers in their employment, if required by the engineer, or upon the complaint of respectable citizens, for good cause shewn; and in general they shall perform all such duties as the nature of their office may require.

4. *Be it further enacted*, That the road authorized at the present session of the general assembly to be constructed from Staunton to Parkersburg, shall be in like manner placed under the supervision and direction of the said principal engineer, and the foregoing provisions shall be in all respects applicable as if they were specially re-enacted in relation to the said last mentioned road.

Staunton and Parkersburg road under direction of engineer.

5. All acts and parts of acts inconsistent with the provisions of Repealing clause, this act, shall be, and are hereby repealed.

6. This act shall be in force from its passage.

Commencement.

CHAP. 140.—An ACT to provide for the construction of the North-western turnpike road.

(Passed April 9, 1838.)

1. *Be it enacted by the general assembly*, That the president and directors of the North-western turnpike road be, and they are hereby authorized, to borrow on the credit of the commonwealth, such sum or sums of money, not exceeding twenty-eight thousand dollars, as may be necessary for the completion of said road. The additional sum to be borrowed for North-western road.

The Terms of loan.
See ante, ch. 12,
pp. 24-27.

may be provided for loans for purposes of internal improvement, in any general act passed at the present session of the general assembly. But if no such act be passed, then the said president and directors are hereby empowered to effect such loan or loans upon the terms prescribed by the act, entitled, "an act to provide for the construction of a turnpike road from Winchester to some point on the Ohio river," passed March the nineteenth, eighteen hundred and thirty-one.

2. This act shall be in force from its passage.

Commencement.

CHAP. 141.—An ACT to provide for the rebuilding of the bridge across the South branch of Potomac river, on the line of the North-western turnpike.

(Passed April 7, 1838.)

1. *Be it enacted by the general assembly*, That the president and directors of the North-western turnpike road be, and they are hereby instructed to contract for the rebuilding of the bridge, (recently erected and destroyed,) across the South branch of the Potomac river on the line of said road, and that the sum required therefor be paid from the tolls which may be received on said road.

Board to contract for rebuilding bridge on North-western road.

2. *And be it further enacted*, That in addition to the tolls now demanded and received on each section of twenty miles of said road, there shall be hereafter demanded and received for passing said bridge when completed, the same tolls required by the act, entitled, "an act to reduce and regulate the tolls on the North-western turnpike," passed January nineteenth, eighteen hundred and thirty-six.

Tolls for passing bridge.
Acts 1835-6, p. 88.

3. This act shall be in force from its passage.

Commencement.

CHAP. 142.—An ACT to provide for the construction of a road from Brandonville to the North-western turnpike.

(Passed April 7, 1838.)

1. *Be it enacted by the general assembly*, That Harrison Hagan, Israel Baldwin and Benjamin Jeffers, be, and they are hereby appointed directors, who, together with two other directors to be appointed by the board of public works, shall constitute a board to superintend and direct the construction of a road from Brandonville Route of road.

Directors of road appointed.

Road how to be constructed.

in the county of Preston, by Kingwood, to a suitable point on the North-western turnpike near Evansville. The said road shall be constructed on the route heretofore surveyed and located for such a road, and on the plan and agreeably to the conditions prescribed for the road from the mouth of Fishing creek to the state line, in the direction of Smithfield, by the act passed March the fifteenth, eighteen hundred and thirty-six, entitled, "an act to provide for the construction of a road from the Ohio river by Morgantown to the Maryland line."

Acts 1835-6, ch. 100, pp. 76-79.

Subscriptions by individuals and county.

Powers relative to subscriptions.

2. *Be it further enacted,* That the said board of directors be and they are hereby authorized to receive subscriptions and donations in money only, from individuals and from the county court of Preston county, for the construction of said road, and the said board of directors and county court may respectively exercise the like powers in relation to the payment of such subscriptions, as are provided in such cases by the aforesaid act of the fifteenth of March, eighteen hundred and thirty-six.

Sum appropriated from treasury of state.

Conditions of payment.

Powers and duties of court and board of directors.

Bond of treasurer where filed; his duties.

Powers of board of public works.

3. *Be it further enacted,* That the sum of ten thousand dollars be and is hereby appropriated from the public treasury to the construction of said road, to be paid upon the like terms and conditions and in like proportions with the payments by individuals and said court, as are prescribed by the before recited act of the fifteenth of March, eighteen hundred and thirty-six. And all the provisions of the said act in relation to the powers and duties of the said court and board of directors, the bond of the treasurer, (which shall be deposited in the clerk's office of Preston county,) the duties of said treasurer, and the powers of the board of public works, (who shall

When state's subscription to be paid.

Commencement.

from time to time request the auditor of public accounts to issue warrants upon the treasury for the appropriation aforesaid, as it shall be called for, agreeably to the terms herein provided,) shall be held and taken to apply as effectually to this act, and to the road herein authorized to be made, as if they were specially recited herein, so far as such provisions are applicable to the purposes herein contained: *Provided*, That whenever one thousand dollars shall be paid by individuals and the said court, such amount of the aforesaid appropriation shall be paid as will be in proper proportion hereto.

4. This act shall be in force from its passage.

CHAP. 143.—An ACT to amend the act, entitled, "an act to provide for the construction of a road from the Pennsylvania line in Monongalia county, by Morgantown, to the Beverley and Clarksburg road."

(Passed April 9, 1838.)

Appropriation by state increased.

How to be paid. Acts 1835-6, p. 77, § 3, 4.

Contributions by counties how proportioned.

1. *Be it enacted by the general assembly,* That the appropriation from the public treasury made by the act, entitled, "an act to provide for the construction of a road from the Pennsylvania line in Monongalia county, by Morgantown, to the Beverley and Clarksburg road," passed March the thirtieth, eighteen hundred and thirty-seven, be and the same is hereby increased to the amount of twelve thousand dollars, which shall be paid according to the provisions of said act, and to the conditions herein provided.

2. *Be it further enacted,* That the aggregate amount in money to be raised by the county courts of the counties of Monongalia, Randolph and Preston, be and is hereby fixed and determined at the sum of eight thousand dollars, of which sum four thousand dollars shall be contributed in the county of Monongalia, two thousand

six hundred and sixty-six dollars and sixty-seven cents in the county of Randolph; and one thousand three hundred and thirty-three dollars and thirty-three cents in the county of Preston. And the said ~~How to be paid.~~
sums shall be paid agreeably to the conditions of the aforesaid act, except that the payments of the said appropriation from the treasury shall be in the proportion to the payments of said county courts and by individuals, of three fifths to two fifths.

3. *Be it further enacted*, That the president and directors of the <sup>Location of road
between Morgan-
town and Collins's
ferry changed.</sup> said road be and they are hereby authorized to make such changes in the location of that part of said road between Morgantown and Collins's ferry, as they may deem advisable; provided that the expense of constructing that portion of the road be not thereby increased.

4. *Be it further enacted*, That if any individual subscriber of <sup>Remedy against
delinquent sub-
scribers.</sup> money shall fail or refuse to pay the amount of his subscription within sixty days after he shall have been required to pay the same by the said president and directors, it shall be lawful for the said president and directors to recover the amount due from such delinquent subscriber, his executor or administrator, by motion, on ten days previous notice, before the court of the county wherein such subscriber, his executor or administrator resides, or before a justice of the peace for such county.

5. *Be it further enacted*, That the labour heretofore expended <sup>Labour on road
not to be part of
subscription.</sup> on said road shall not in any manner be estimated as a part of the proportion of subscriptions required from individuals.

6. This act shall be in force from its passage. ^{Commencement.}

CHAP. 144.—An ACT to provide further for the completion of the road from the Ohio river at the mouth of Fishing creek, to the state line in the direction of Smithfield.

(Passed February 14, 1838.)

1. *Be it enacted by the general assembly*, That the board of public works be and they are hereby authorized to loan on behalf of the commonwealth, out of the unappropriated fund for internal improvement, to the board of directors of the road from the Ohio river at the mouth of Fishing creek in the county of Tyler, by way of Morgantown and Brandonville, to the state line in the direction of Smithfield, the sum of twelve thousand dollars, to be applied by said board of directors to the completion of said road: *Provided*, That ~~Security required.~~ the said board of directors, previous to the payment of any portion of said loan, do execute to the president and directors of the said board of public works a mortgage upon all the property, real and personal, held by the said board of directors, and upon the nett income of all the tolls and receipts on said road, and cause the said mortgage to be recorded in the clerk's office of the county court of Monongalia, to secure the payment of the interest on said loan semi-annually, and the repayment of the principal thereof in ten equal semi-annual instalments, beginning with the period of the fourth payment of the semi-annual interest, into the treasury to the credit of the fund for internal improvement.

2. *Be it further enacted*, That if the income of the fund for internal improvement shall be inadequate to pay the said loan, the said board of public works are hereby authorized to borrow such sum or sums as may be necessary therefor, agreeably to such terms and <sup>Board of public
works to borrow
sum necessary.</sup> conditions as may be provided for loans for purposes of internal im-

See also, ch. 12, pp. 24-27. provement in any general act passed at the present session of the general assembly. But if no such act be passed, then the said board

are hereby empowered to effect the said loan upon the terms prescribed in the third section of the act concerning said road, passed March the fifteenth, eighteen hundred and thirty-six, entitled, "an act to provide for the construction of a road from the Ohio river, by Morgantown, to the Maryland line." *Provided*, That the said board of public works shall not be authorized to borrow the said sum of twelve thousand dollars, or any part thereof, at a rate of interest exceeding five per centum per annum, or to loan the same to the said board of directors at any other rate of interest than they have to pay for the same.

Rate of interest to be paid.

Commencement.

3. This act shall be in force from its passage.

CHAP. 145.—An ACT to authorize a change of location of a part of the road from the Ohio river to the state line in the direction of Smithfield.

(Passed April 6, 1838.)

Change of location in part of Fishing creek and Brandonville road authorized.

1. *Be it enacted by the general assembly,* That the board of directors of the road from the Ohio river, at the mouth of Fishing creek in the county of Tyler, by way of Morgantown and Brandonville, to the state line in the direction of Smithfield on the National road, be and they are hereby authorized to examine an alteration proposed in the location of said road from Morgantown westward to Joseph Morgan's mill on Buffaloe creek, and to report to the board of public works the result of such examination; and if the said board of directors shall desire to make a change of location as aforesaid, and the board of public works shall consider the change proper, the board of directors may thereupon proceed to make the same.

Commencement.

2. This act shall be in force from its passage.

ACTS

OF

A PRIVATE AND LOCAL NATURE.

PART II.

CHAP. 146.—An ACT to authorize the Portsmouth and Roanoke rail-road company and the Winchester and Potomac rail-road company to change the mode of charging toll in certain cases.

[Passed March 5, 1838.]

1. *Be it enacted by the general assembly,* That the president and directors of the Portsmouth and Roanoke rail-road company, and the president and directors of the Winchester and Potomac rail-road company, upon the establishment of convenient depots, warehouses and stopping places on the line of their roads for taking up or putting down passengers, produce, merchandize, naval stores, or other commodities, and upon giving public notice of the establishment of such depots, warehouses or stopping places, shall not be required to take up or receive, or put down or deliver any passenger, produce, merchandize, naval stores, or other commodity, at any other point on their said rail-roads than at a depot, warehouse or stopping place as aforesaid.

Where to receive
or deliver produce
and passengers.

2. *Be it further enacted,* That the said president and directors of the companies aforesaid shall not be required to transport on the said rail-roads any package or small article on which a less toll is demandable than one hundred pounds weight; and for the transportation of any such package or small article for any distance however short, they shall be and are hereby authorized to demand and receive the sum of twenty-five cents, or they may charge toll on the same as for one hundred pounds weight. And the said president and directors of the companies aforesaid are hereby authorized to demand and receive three times the amount of toll now authorized to be received, for the transportation of horses, cattle, carriages, gigs, wagons, carts, or other vehicles; of specie or bullion; of dry goods in boxes or bales; of vessels, boats, china, wooden, earthen or stone ware, cabinet ware and furniture, and on all bulky articles weighing less than forty pounds to the cubic foot, they shall be authorized to demand and receive a toll on each cubic foot, as for forty pounds weight.

Not compellable
to carry small
articles.

Toll allowed
thereon if carried.

Tolls increased.

3. This act shall be in force from its passage.

Commencement.

CHAP. 147.—An ACT authorizing a loan on behalf of the state to the Portsmouth and Roanoke rail-road company.

[Passed March 31, 1838.]

1. *Be it enacted by the general assembly,* That the board of public works be and they are hereby authorized and directed to loan on

Sum to be loaned
to the Portsmouth
and Roanoke rail-
road company.

Security required.

behalf of the commonwealth, out of the unappropriated income of the fund for internal improvement, to the Portsmouth and Roanoke rail-road company, the sum of one hundred and fifty thousand dollars, payable as hereinafter directed: *Provided*, That the said Portsmouth and Roanoke rail-road company, previous to the payment of any portion of said loan, do execute to the president and directors of the said board of public works a mortgage upon their whole property, real and personal, and upon the nett income of all their tolls and receipts, and cause the said mortgage to be recorded in the clerk's office of the county court of Norfolk county, to secure the payment of the interest on said loan semi-annually, and the repayment of the principal thereof in ten equal semi-annual instalments, beginning with the period of the fourth payment of the semi-annual interest, into the treasury to the credit of the fund for internal improvement: *Provided*, That all the profits of said company, after paying the current annual expenses of said road, or so much thereof as shall be necessary, shall be first applied to the payment of the annual interest on the sum hereby loaned before any dividend shall be made amongst the stockholders.

Profits to be applied to the payment of interest on loan.**Board of public works to borrow the sum necessary.****Conditions of loan.****See ante, ch. 12, pp. 24-27.****Money loaned to be applied to the payment of debts.**
Act authorizing money to be borrowed to run steam-boats, repealed.
Acts 1836-7, p. 116, § 3.**Salaries of officers restricted.****Company subject to provisions of general rail road act.****Exception. Elections of officers not changed.****Provision relative to tolls.**
When state proxy not to vote.**Commencement.**

2. *Be it further enacted*, That if the income of the fund for internal improvement shall be inadequate to pay the said loan, the said board of public works are hereby empowered to borrow such sum or sums as may be necessary therefor, agreeably to such terms and conditions as may be provided for loans for purposes of internal improvement in any general act passed at the present session of the general assembly. But if no such act be passed, then the said board are hereby authorized to effect the said loan upon the terms and conditions prescribed by the act, entitled, "an act to increase the capital stock of the Portsmouth and Roanoke rail-road company, and to authorize a subscription thereto on behalf of the state," passed January the twentieth, eighteen hundred and thirty-four: *Provided*, That the amount of the loan hereinbefore granted shall be first applied to the debts due now by the said company; and upon this further condition, that all the rights and privileges granted to said company by the third section of the act, entitled, "an act to authorize the Portsmouth and Roanoke rail-road company to change the mode of charging toll in certain cases, and for other purposes," passed March twenty-seventh, eighteen hundred and thirty-seven, shall be taken and held to be utterly void and of no effect.

3. *Be it further enacted*, That no higher salaries than those paid agreeably to the last report of the company, shall be given by said company until the loan hereby granted shall be liquidated.

4. *Be it further enacted*, That if said company avail itself of the benefit of this act, it shall be upon condition that said company shall hereafter be subject to all the provisions of "an act prescribing certain general regulations for the incorporation of rail-road companies," passed March eleventh, eighteen hundred and thirty-seven, except so much thereof as relates to the ratio of votes: *Provided, however*, That nothing contained in this act, or in the act of the eleventh of March aforesaid, shall be so construed as to change the mode of electing the president and directors, who shall be elected and appointed as now prescribed by law, or to change the mode of charging toll as now authorized, and the state proxy is hereby prohibited from voting on the acceptance or rejection of this act.

5. This act shall be in force from its passage.

CHAP. 148.—An ACT to repeal in part the fourth section of the act, entitled, “an act to amend the several acts concerning the Petersburg rail-road company, and for other purposes.”

[Passed March 29, 1858.]

1. *Be it enacted by the general assembly,* That so much of the Act prohibiting arrangements for transportation with companies out of state repealed. fourth section of the act to amend the several acts concerning the Petersburg rail-road company, passed the sixteenth of March, eighteen hundred and thirty-six, as prohibits arrangements to be made between that and other rail-road companies not incorporated by the laws of this state for effecting the transportation on adjoining rail-roads, shall be, and the same is hereby repealed.

2. *Be it further enacted,* That the president and directors of Greensville and Roanoke company are authorized to increase their capital. That the president and directors of Greensville and Roanoke rail-road company be, and they are hereby authorized, from time to time, to add to their capital stock to such extent beyond the present amount of the capital of the company as may be necessary to meet the expenditures already incurred or which may hereafter be required in providing for the trade and travel on their road, first giving to the individual stockholders, for the time being, or their legal representatives, the option of taking the additional shares, in proportion to the amount of stock respectively held by them, and opening books of subscription in such places as they may select, for any balance of additional stock which may not have been so taken by the stockholders for the time being, or in their behalf. And the subscribers for such additional shares are hereby declared to be thenceforward incorporated into the said company, with all the privileges and liabilities of the original stockholders: *Provided*, That the additional capital herein authorized shall not exceed the sum of one hundred thousand dollars.

3. *Be it further enacted,* That should the said president and directors, in lieu of increasing the capital stock of the company as aforesaid, deem it more advisable so to do, they shall be, and are hereby authorized to borrow the said sum, or any part thereof; to issue certificates or other evidence of the loan or loans, and to make the same convertible into stock of the company at the pleasure of the holder, and to pledge the property of the company for the payment of such loan or loans, with the interest thereon: *Provided*, That no certificates of loan convertible into stock, or creating any lien or mortgage on the property of the company shall be issued by the said president and directors, unless the expediency of making a loan on such terms, and of issuing such certificates, shall have first been determined on at a general meeting of the stockholders by two thirds of the votes which could legally be given in favour thereof.

4. *Be it further enacted,* That the board of public works be, and they are hereby authorized and directed, to loan on behalf of the commonwealth, out of the unappropriated income of the fund for internal improvement, to the Petersburg and Roanoke rail-road company, the sum of one hundred and fifty thousand dollars, payable as hereinafter directed: *Provided*, That the said rail-road company, previous to the payment of any portion of said loan, do execute to the president and directors of the said board of public works, a mortgage on the whole property, real and personal, and upon all the net income of their tolls and receipts, and cause the said mortgage to be recorded in the clerk's office of the county of

Rail-Roads—City Point Company.

Dinwiddie, to secure the interest on said loan semi-annually, and the repayment of the principal thereof in ten equal instalments, beginning with the period of the fourth instalment of the semi-annual interest into the treasury to the credit of the fund for internal improvement.

Board of public works to borrow money.

Conditions of loan. See ante, ch. 12, pp. 24-27.

Debts of company to be first paid out of loan.

Companies subject to provisions of general rail-road act.

Tolls not changed.

Arrangements for transportation to be made with Raleigh and Gaston company alone.

Commencement.

Company authorized to borrow money.

Amount of loan.

How ratified.

5. *Be it further enacted,* That if the income of the fund for internal improvement shall be inadequate to pay the said loan, the said board of public works are hereby empowered to borrow such sum or sums as may be necessary therefor, agreeably to such terms and conditions as may be provided for loans for purposes of internal improvement in any general act passed at the present session of the general assembly; but if no such act be passed, then the said board are hereby authorized to effect the said loan, upon the terms and conditions prescribed by the act, entitled, "an act to increase the capital stock of the Portsmouth and Roanoke rail-road company, and to authorize a subscription thereto on behalf of the state," passed January twentieth, eighteen hundred and thirty-four: *Provided*, That the amount of the loan herein before granted shall be in the first place applied to the debts due by the said company.

6. *Be it further enacted,* That if said Petersburg and Roanoke and Greenville and Roanoke rail-road companies, or either of them, avail themselves of the benefit of this act, the company or companies so accepting shall be subject to all the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of rail-road companies," passed March the eleventh, eighteen hundred and thirty-seven, any thing in the acts of incorporation of said companies to the contrary notwithstanding: *Provided however*, That nothing herein contained shall be construed so as to alter in any manner the tariff of tolls established by the act passed March sixteenth, eighteen hundred and thirty-six, in relation to the Petersburg rail-road company.

7. *Provided however*, That nothing herein contained, or contained in the third section of the aforesaid act of the sixteenth of March, eighteen hundred and thirty-six, shall be so construed as to authorize the said Petersburg company to enter into such arrangements for effecting transportation on the road of any other company not incorporated by this state, than that of the Gaston and Raleigh rail-road company incorporated by the state of North Carolina.

8. This act shall be in force from its passage.

CHAP. 149.—An ACT to authorize the City Point rail-road company to borrow a sum of money.

(Passed February 13, 1839.)

1. *Be it enacted by the general assembly,* That the president and directors of the City Point rail-road company be, and are hereby authorized to borrow from time to time, upon such terms and conditions as may be agreed upon, such sums of money as may be necessary to meet any expenditure hitherto incurred, or which may hereafter be required, for warehouses, extra tracks and other constructions connected with the said rail-road, and to issue for any loan so made, certificates or scrip convertible into stock at the pleasure of the holder: *Provided*, That such loan made under authority of this act, shall not exceed twenty thousand dollars: *And provided also*, That no loan shall be made unless two thirds

of the stockholders in general meeting assembled, after fifteen days notice, shall concur in the expediency of such loan.

2. This act shall be in force from its passage.

Commencement.

CHAP. 150.—An ACT to provide for the payment of the state's subscription to the stock of the City Point rail-road company on certain conditions, and for other purposes.

(Passed April 3, 1838.)

1. *Be it enacted by the general assembly,* That the board of public works be, and they are hereby authorized and required to pay the residue of the subscription of the commonwealth to the stock of the City Point rail-road company, now remaining unpaid, as soon as the amount necessary for that purpose can be obtained, agreeably to the terms and conditions prescribed by the act passed March the twenty-seventh, eighteen hundred and thirty-seven, entitled, "an act to authorize a subscription by the board of public works to the stock of the City Point rail-road company :" *Provided however,* That interest at the rate of six per centum per annum be allowed to the commonwealth on such portions of the amount so advanced as shall exceed the amount of the quotas of the state's subscription as they shall fall due, until the whole amount so advanced shall be absorbed by such accruing liabilities : *And provided also,* That all stockholders other than the commonwealth shall pay interest on each instalment called for by the president and directors of said company, from the time the same shall have been called for, until it shall be actually paid.

2. *And be it further enacted,* That it shall be lawful for the mayor of the town of Petersburg to call a meeting of the lawful voters of the said town after one week's notice thereof in a Petersburg newspaper, for the purpose of fixing a convenient point on the south side of the river Appomattox for the depot of the Richmond and Petersburg rail-road company, agreeably to the thirty-fifth section of the act incorporating that company.

3. This act shall be in force from its passage.

Commencement.

CHAP. 151.—An ACT concerning the Richmond and Petersburg rail-road.

(Passed March 30, 1838.)

1. *Be it enacted by the general assembly,* That the board of public works be, and they are hereby authorized and required to pay the residue of the subscription of the commonwealth to the stock of the Richmond and Petersburg rail-road company now remaining unpaid, so soon as the amount necessary for that purpose can be obtained, agreeably to the terms and conditions prescribed by the act passed January the seventeenth, eighteen hundred and thirty-seven, entitled, "an act to authorize a subscription on behalf of the state, to the Richmond and Petersburg rail-road company :" *Provided however,* That interest at the rate of six per centum per annum be allowed to the commonwealth on such portions of the amount so advanced as shall exceed the amount of the quotas of the state subscription, as they shall fall due, until the whole amount so advanced shall be absorbed by such accruing liabilities : *And provided also,* That all stockholders other than the commonwealth shall pay interest on each instalment called for by the president and directors of the said company, from the time the same shall have been called for until the same shall be actually paid.

Meeting of citizens of Petersburg to fix site for depot for Richmond and Petersburg company.

Private stock-holders to pay interest on delinquent stock.

Company subject to provisions of general rail-road act.

Bonds depending not affected thereby.

Tolls and dividends not affected.

Existing loans not affected.

Board of public works to loan money to company.

Security required.

Profits to be first applied to payment of interest on loan.

Existing loan from state to be first paid.

Board of public works to borrow money.

**Conditions of loan.
See also, ch. 12,
pp. 24-27; post
ch. 138.**

Commencement.

2. Be it further enacted, That if said company avail themselves of the benefit of this act, it shall be subject to all the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of rail-road companies," passed March eleventh, eighteen hundred and thirty-seven, and any provision or provisions in the act incorporating said company inconsistent with the said act of March eleventh, eighteen hundred and thirty-seven, shall be, and the same is hereby repealed: *Provided however*, That nothing in this section shall be so construed as to interfere with any pending controversy or suit in which said company shall be a party, or to diminish the tariff of tolls, or compensation to stockholders as established by the charter of the said Richmond and Petersburg rail-road company, or to affect any loan or loans heretofore made or contracted to be made by said company, or so made or contracted to be made by any agent of said company before the receipt of orders countermanding such loan, to be immediately forwarded to such agent.

3. Be it further enacted, That the board of public works be, and they are hereby authorized and directed to loan on behalf of the commonwealth out of the unappropriated income of the fund for internal improvement, to the Richmond and Petersburg rail-road company the sum of one hundred and fifty thousand dollars: *Provided*, That the said company previous to the payment of any portion of said loan, do execute to the president and directors of the said board of public works, a mortgage upon their whole property, real and personal, and upon the nett income of all their tolls and receipts, and cause the said mortgage to be recorded in the clerk's office of the county court of Chesterfield county, to secure the payment semi-annually of the interest of said loan, and the repayment of the principal thereof in ten equal semi-annual instalments, beginning with the period of the fourth payment of the semi-annual interest into the treasury to the credit of the fund for internal improvement: *Provided*, That all the profits of said company after paying the current annual expenses of said road, or so much thereof as shall be necessary, shall be first applied to the payment of the annual interest on the sum hereby loaned before any dividend shall be made amongst the stockholders: *And provided also*, That there shall be paid into the public treasury out of the said sum of one hundred and fifty thousand dollars, an amount equal to the principal and interest due at the time of such payment, of a loan heretofore made by the executive to the said Richmond and Petersburg rail-road company; the same to be in discharge of said loan, and to be subject as before to be loaned out by the executive, according to the provisions of the act passed March twenty-fifth, eighteen hundred and thirty-seven, entitled, "an act increasing the banking capital of this commonwealth."

4. Be it further enacted, That if the income of the fund for internal improvement be inadequate to pay the said loan, the said board of public works are authorized to borrow the requisite amount on the same terms and conditions prescribed in the act passed at the present session, entitled, "an act to authorize a loan on the part of the state to the Winchester and Potowmac rail-road company."

5. This act shall be in force from its passage.

CHAP. 152.—An ACT to authorize the Etna coal company to construct a rail-road from their lands to James river.

(Passed January 19, 1838.)

1. *Be it enacted by the general assembly,* That it shall and may be lawful for the Etna coal company to construct and keep, by themselves, their officers, agents and servants, a rail-road from the lands now in the possession of the company in the county of Pew-hatan, to such point on James river as they may select, and to provide every thing necessary and convenient for the purpose of transportation on the same. The said rail-road shall be constructed and kept in repair agreeably to the provisions, and the said company shall be at all times subject to all the conditions of the act passed on the eleventh of March, eighteen hundred and thirty-seven, entitled, "an act prescribing certain general regulations for the incorporation of rail-road companies." Acts 1836-7, ch. 118, pp. 101-112.

2. This act shall be in force from its passage..

Commencement.

CHAP. 153.—An ACT to amend "the act incorporating the Tuckahoe and James river rail-road company," passed March twenty-seventh, eighteen hundred and thirty-seven.

(Passed March 9, 1838.)

1. *Be it enacted by the general assembly,* That it shall be lawful for the stockholders of the Tuckahoe and James river rail-road company to increase their capital stock from time to time, by selling or causing to be sold, shares therein, at such times, in such manner and to such amount as they may think proper, until the capital stock of said company shall be enlarged to the sum of one hundred thousand dollars: *Provided*, That the further time of twelve months from the passage of this act shall be, and the same is hereby allowed to the said company to construct the said rail-road. Time allowed to construct road.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 154.—An ACT to enable the Richmond, Fredericksburg and Potomac rail-road company to augment their capital stock for certain purposes.

(Passed February 15, 1838.)

1. *Be it enacted by the general assembly,* That in order to enable the Richmond, Fredericksburg and Potomac rail-road company to carry on and effect the transportation on the Louisa rail-road, upon such terms as have been or may be agreed upon by the president and directors of the two companies, and in accordance with the authority given for such purpose by the second section of the act, entitled, "an act to increase the stock of the Natural bridge turnpike company, and for other purposes," passed March the thirtieth, eighteen hundred and thirty-seven, it shall and may be lawful for the president and directors of the said Richmond, Fredericksburg and Potomac rail-road company, by and with the advice and consent of the stockholders thereof, in general meeting, to augment, from time to time, the capital of the company, by any additional amount not exceeding in the aggregate sixty thousand dollars. The said president and directors are hereby authorized to open books at such times and places as they may deem proper, for receiving subscriptions for such increased capital; and the said subscriptions shall be made, and the stock be held, upon the terms and conditions prescribed by law, concerning the existing capital of said company. Books for subscriptions to be opened. Conditions.

How funds so raised to be applied.

2. *Be it further enacted*, That it shall not be lawful for the said president and directors to apply or divert any portion of the funds raised by virtue of this act, to any other purpose than that herein declared; nor shall they be at liberty to employ the said funds, or any part thereof, to the construction or repair of their own road, or any part or branch thereof, should they at any future period cease to carry on the transportation on the Louisa rail-road.

Commencement.

3. This act shall be in force from its passage.

CHAP. 155.—An ACT to provide for the payment of the state's subscription to the stock of the Louisa rail-road company on certain conditions.

(Passed April 3, 1838.)

State's subscription to be advanced to company.

1. *Be it enacted by the general assembly*, That the board of public works be, and they are hereby authorized and required to pay the residue of the subscription of the commonwealth to the stock of the Louisa rail-road company, now remaining unpaid, as soon as the amount necessary for that purpose can be obtained, agreeably to the terms and conditions prescribed by the act passed February the twenty-fifth, eighteen hundred and thirty-seven, entitled, "an act to authorize subscription on behalf of the state to the stock of the Louisa rail-road company": *Provided however*, That interest, at the rate of six per centum per annum, be allowed to the commonwealth on such portions of the amount so advanced as shall exceed the amount of the quotas of the state's subscription as they shall fall due, until the whole amount so advanced shall be absorbed by such accruing liabilities: *And provided also*, That all stockholders other than the commonwealth shall pay interest on each instalment called for by the president and directors of the said company, from the time the same shall have been called for until it shall be actually paid.

Interest to be allowed on sum advanced.

Private stockholders to pay interest on delinquent stock.

Commencement.

CHAP. 156.—An ACT to authorize the Louisa rail-road company to construct a rail-road from some point on the line of their rail-road, to Charlottesville, and for other purposes.

(Passed March 27, 1838.)

Branch rail-road to Charlottesville authorized.

Books for subscriptions.

**Amount of capital.
Terms of subscription.
Regulations for road.
Acts 1836-7,
pp. 101 112.**

1. *Be it enacted by the general assembly*, That the Louisa rail-road company be, and they are hereby authorized to construct a rail-road from any point on the line along which they are now authorized to carry their present rail-road, to the town of Charlottesville, and to provide every thing necessary and convenient for the purpose of transportation on the same. Should the said company determine to make the said rail-road, it shall and may be lawful for the president and directors, and for such deputies or agents as they shall appoint for that purpose, to open books at such time and places as the said company, or the president and directors, may direct, for receiving subscriptions to the amount of three hundred thousand dollars, in shares of one hundred dollars each. The said books shall be opened, and the subscriptions be made, in the manner, and upon the terms and conditions, prescribed by the act, entitled, "an act prescribing certain general regulations for the incorporation of rail-road companies," passed March the eleventh, eighteen hundred and thirty-seven, and all the provisions of said act shall be deemed and taken to apply as effectually to the rail-road to be constructed under authority of this act, and to the said president and directors in making the same, as if they were expressly recited herein: *Pro-*

vided, That the right is hereby reserved to the general assembly, Right to tax stock, whenever it may deem proper, to levy a tax on the property, stock, &c. and profits of the company, held or received by virtue of the provisions of this act: Provided however, That the whole amount of the increased capital, addition made to the capital stock under the authority of this section, shall be applied to the purpose of constructing the branch or lateral rail-way aforesaid, and to no other use or purpose whatever; and that no bridge, other than a rail-road bridge, shall be constructed across any stream on the line of the rail-road hereby authorized, within five miles of any toll-bridge across such stream, without the consent of the owner or owners thereof: And provided further, That if the said Louisa rail-road company shall not within two years from the passage of this act, elect and determine in general meeting to construct the lateral rail-road herein provided for, or having so elected, shall not actually commence the construction of the same within four years from the passage of this act, then and in that case the general assembly may authorize the construction thereof, or any portion of the same, by any other company.

And whereas it is desirable to extend the Louisa rail-road on the line designated in the act of incorporation, for the purpose of increasing the profit likely to arise to the commonwealth and individuals on the stock held by each in said company, and for the further purpose of securing the citizens of the counties of Albemarle, Greene, Orange, Madison, Rockingham, Culpeper, and large portions of the counties of Spottsylvania and Louisa, a participation in the benefits of this improvement, which would otherwise be unavailing:

2. Be it therefore enacted, That the board of public works be and they are hereby authorized and directed to subscribe three fifths of any sum not exceeding two hundred thousand dollars, of which two fifths may be raised by private subscription, in the manner provided for making the subscription to the stock of that company, by an act passed on the twenty-fifth day of February, eighteen hundred and thirty-seven, entitled, "an act to authorize a subscription on behalf of the state to the stock of the Louisa rail-road company," to be applied by said company to the construction of the road contemplated in the last recited act.

3. This act shall be in force from its passage.

Commencement.

CHAP. 157.—An ACT extending the time for receiving subscriptions to the stock of the Falmouth and Alexandria rail-road company, and directing a subscription for three fifths of their capital by the board of public works.

(Passed March 30, 1838.)

1. Be it enacted by the general assembly, That the farther time of two years from and after the passage of this act, be and is hereby allowed the Falmouth and Alexandria rail-road company, for receiving subscriptions to their capital stock.

2. Be it further enacted, That the board of public works be and are hereby authorized and required to subscribe on behalf of the commonwealth for three fifths of the capital stock of said company whenever the other two fifths thereof shall have been subscribed by individuals and bodies politic and corporate other than said board, in conformity with the provisions contained in the third section of the act passed March the thirtieth, eighteen hundred and thirty-seven, entitled, "an act authorizing subscriptions by the Rich-

mond, Fredericksburg and Potomac rail-road company and by the board of public works to the stock of the Falmouth and Alexandria rail-road company, due regard being had to the increased ratio of the subscription herein authorized.

Commencement.

3. This act shall be in force from its passage.

CHAP. 158.—An ACT authorizing a loan on the part of the state to the Winchester and Potomac rail-road company.

(Passed February 13, 1833.)

**Loan by state to
Winchester com-
pany.**

1. Be it enacted by the general assembly, That the board of public works be and they are hereby authorized and directed to loan on behalf of the commonwealth, out of the unappropriated income of the fund for internal improvement, to the Winchester and Potomac rail-road company, the sum of one hundred and fifty thousand dollars, upon condition that the salaries of the officers and servants of the said company shall not be directly or indirectly increased during the existence of this debt, and that the said Winchester and Potomac rail-road company, previous to the payment of any portion of the said loan, do execute to the president and directors of the said board of public works, a mortgage upon their whole property, real and personal, and upon the nett income of all their tolls and receipts, and cause the same to be recorded in the county court of Frederick county, to secure the payment of the interest on said loans semi-annually, and the repayment of the principal thereof in ten equal semi-annual instalments, beginning with the sixth payment of the semi-annual interest, into the treasury to the credit of the fund for internal improvement.

**Salaries of officers
not to be increas-
ed.**

**Security required
for payment of
loan.**

2. Be it further enacted, That if the income of the fund for internal improvement shall be inadequate to pay the said loan, the said board of public works are hereby empowered to borrow such sum or sums as may be necessary therefor, agreeably to such terms and conditions as may be provided for loans for purposes of internal improvement, in any general act passed at the present session of the general assembly. But should no such act be passed, then the said board are hereby authorized to effect the said loan or loans upon the terms and conditions prescribed by the act passed February the sixth, eighteen hundred and thirty-four, entitled, "an act to amend the act, entitled, 'an act to authorize a subscription on behalf of the commonwealth to the stock of the Winchester and Potomac rail-road company, and for other purposes.'"

**Right to tax stock
and property.**

**Provision for
transportation of
mail.**

**Loan to be applied
to payment of
debts.**

Commencement.

3. Be it further enacted, That if the said company accept the benefit of this act, it shall be upon condition that the legislature have the right to tax the stock, property and profits of said company, and that said company shall be subject to the thirty-sixth section of "an act prescribing certain general regulations for the incorporation of rail-road companies," passed March eleventh, eighteen hundred and thirty-seven.

4. And be it further enacted, That the loan granted by this act shall be first applied to the payment of so much of the debt due from said company, as is secured by lien upon the property of said company, and the remainder to any other portion of the debt of said company, and to no other purpose; and the board of public works are hereby required and authorized to make such arrangements as may be considered by that board necessary and proper to insure the faithful performance of the requirements of this act.

5. This act shall be in force from its passage.

**Terms.—See ante,
ch. 112, pp. 24-27.**

CHAP. 159.—An ACT to authorize a further subscription on behalf of the state to the stock of the Baltimore and Ohio rail-road company.

(Passed April 2, 1883.)

1. *Be it enacted by the general assembly,* That the board of public works be and are hereby authorized and instructed to subscribe to the capital stock of the Baltimore and Ohio rail-road company to the amount of one million fifty-eight thousand four hundred and twenty dollars, being two fifths of the estimated cost of constructing the rail-road of said company through the territory of this state, between Harper's Ferry and Cumberland in the state of Maryland: *Provided*, That the said sum shall not be paid until six months when to be paid after the said company shall have certified and proved to the satisfaction of said board of public works, that the said road from Harper's Ferry, west, through the territory of this state, to within about six miles of Cumberland, and from thence through Cumberland to the city of Wheeling in the county of Ohio, has been actually completed and in operation with a single track: *Provided also*, That before the said subscription on behalf of this state as aforesaid shall be paid, the city of Wheeling and the inhabitants of the county of Ohio shall subscribe the amount of one million of dollars to the capital stock of the said company, and prove to the satisfaction of the board of public works, that the said subscription has been actually paid: *And provided further*, That from the date of the aforesaid subscription by the board of public works, the state of Virginia shall be entitled to two directors in the said rail-road company, to be appointed by said board, or in such other manner as the general assembly may direct: *Provided further*, That the said subscription shall be made on the same terms, in regard to the guarantee of six per cent, with the subscription of three millions, made by the state of Maryland, in an act passed in June eighteen hundred and thirty-six.

2. *Be it further enacted*, That upon the said rail-road company making known to the board of public works, by a proper instrument in writing to that end, their assent to the terms and conditions above prescribed, and by complying with such parts thereof as are herein required to be complied with, the said board shall make the said subscription in accordance with the authority hereinbefore given.

3. *Be it further enacted*, That nothing herein contained, or contained in any act heretofore passed concerning the Baltimore and Ohio rail-road company, shall be so construed as to authorize the said company to interfere with the property or location of the Winchester and Potomac rail-road company, or occupy any of the grounds or works, or infringe any of the rights or privileges of the said Winchester and Potomac rail-road company, without their consent. Nor shall the said Baltimore and Ohio rail-road company, in the location of their road within this commonwealth, pursue a line which shall, after leaving the margin of the Potomac at or near the mouth of Elk run in Jefferson county, approach the Winchester and Potomac rail-road nearer than the route recently surveyed by the Baltimore and Ohio rail-road company, along and through the ravine of said Elk run, without the consent of the said Winchester and Potomac rail-road company. But the said Baltimore and Ohio rail-road company may, if they think proper so to do, adopt the road of the Winchester and Potomac rail-road company, or any

Subscription by
board of public
works.

Subscription by
Wheeling.

State directors,
now appointed.

Interest guaran-
teed to state.

Company to be-
sent to conditions.

Rights of Win-
chester and Poto-
mac company pro-
tected.

Limited in ap-
proaching Win-
chester road.

Power to adopt
Winchester road
as part of their
road.

Winchester company authorized to transfer their road.
Regulations for road, if adopted.

Bound to afford transportation.

Rates of toll.

Restricted in establishing depots.

Power to connect other rail roads with company's road.

What provisions of general rail-road act applicable.

Transportation of mail.
Right to tax stock, &c.

Time allowed for completing work in the state.

Commencement.

part thereof, as a part of their main stem, or as a lateral branch thereof, in case the said Winchester and Potomac rail-road company are willing to transfer the same to the said Baltimore and Ohio rail-road company, which the said Winchester and Potomac rail-road company are hereby authorized to do, upon such terms as may be agreed upon by the said two companies. And if the said Baltimore and Ohio rail-road company shall so adopt the said road, or any part thereof, the same, or the part so adopted, shall be held by the said Baltimore and Ohio rail-road company, subject to all laws now in force relating to the said Winchester and Potomac rail-road company; and the said Baltimore and Ohio rail-road company shall at all times afford, at the point where the roads of the respective companies may unite, such equal and ready transportation as is furnished generally over their road, to the persons and commodities brought by or to the Winchester and Potomac rail-road, and at the same rates as are charged upon the said Baltimore and Ohio rail-road in other cases: *Provided, however,* That the said Baltimore and Ohio rail-road company shall not be permitted to establish any public depot, or to receive or set down freight at any point between the Smithfield and Shepherdstown turnpike and the town of Harper's Ferry, but may at their pleasure authorize private depots to be erected at such points as they shall designate, to be used exclusively for the accommodation of the produce of the lands through which the said road may pass.

4. *Be it further enacted,* That full right and privilege is hereby reserved to this commonwealth, or to any citizen thereof, or other persons or companies, who may hereafter be so authorized by the general assembly, to connect or intersect with any point or part of the rail-road or works contemplated in this act to be made and erected by said Baltimore and Ohio rail-road company within this commonwealth, any other rail-road or rail-roads, canal or canals, or other works: *Provided,* That in forming such connexion or intersection, no injury shall be done to any of the works of the said Baltimore and Ohio rail-road company.

5. *Be it further enacted,* That if the company accept of the subscription herein provided for, it shall be subject to the provision contained in the act passed on the eleventh of March, eighteen hundred and thirty-seven, establishing general regulations for the incorporation of rail-road companies, on the subject of the transportation of the mail; and its stock, property and profits shall be subject to taxation so far as the jurisdiction of this commonwealth extends, any thing in the act passed March the eighth, eighteen hundred and twenty-seven, confirming the act of the general assembly of Maryland creating the company, to the contrary notwithstanding.

6. *Be it further enacted,* That the Baltimore and Ohio rail-road company be and are hereby allowed the further time until the fourth day of July, eighteen hundred and forty-three, for the completion of that portion of their improvement to be constructed within this commonwealth: *Provided,* The said company shall accept the provisions of this act, and locate their improvement accordingly.

7. This act shall be in force from its passage.

CHAP. 160.—An ACT to provide for the opening of certain public roads in Norfolk county.

[Passed February 18, 1838.]

1. Be it enacted by the general assembly, That it shall and may be lawful for the president and directors of the Norfolk draw bridge company to apply to the circuit superior court of law and chancery for Norfolk county to appoint five discreet, intelligent, disinterested and impartial freeholders to assess the damages to the owner of any lands through which the said company desire to open a road to and from their present bridge, or any bridge hereafter to be erected over the eastern or southern branch of Elizabeth river; and upon such application, if the said court shall be of opinion that the said company possess lawful authority for the construction of their bridge, the judge thereof shall appoint the freeholders as aforesaid, who shall proceed in all respects according to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of rail-road companies," passed March the eleventh, eighteen hundred and thirty-seven; and the said court shall possess and exercise the same powers in relation to any road applied for under this act, as are given to county courts by the before recited act. But no appointment of freeholders shall be made, nor shall any permission to open a road be given by said court, unless the said court shall be satisfied that the said company have a right by law to erect the bridge to and from which they desire to open the road.

2. Be it further enacted, That the said court when satisfied as aforesaid of the right of said company to erect their bridge, shall be and is hereby authorized, if it be deemed proper, in lieu of appointing five freeholders as aforesaid, to direct the clerk of the court to issue a writ in the nature of a writ of *ad quod damnum*, directed to the sheriff, commanding him to summon and impanel twelve able, discreet and impartial freeholders of the county, no ways related to any of the parties, to meet at some certain place on the ground through which the road is proposed to be made, and on a certain day to be named by the court and inserted in said writ, of which notice shall be given by the sheriff to the proprietors and tenants of the lands proposed to be condemned, if they be found within the county, and if not, then to their agents therein, if any they have, if such proprietors, tenants or agents were not present in court at the time of the order being made. The said freeholders shall proceed in all respects agreeably to the provisions of the second section of the act, entitled, "an act to reduce into one the several acts concerning public roads, and for establishing public landings," and the powers given to county courts by said section, are hereby vested in the said superior court of law and chancery, when proceeding under the provisions of this section, as fully as if they were specially recited herein, so far as they are applicable to the purposes of this act: *Provided*, That the damages awarded and the cost of the inquest shall be charged upon and be paid by the said Norfolk draw bridge company.

3. Be it further enacted, That the said draw bridge company shall be and are hereby required to construct any bridge erected for them as aforesaid, in such manner as not to impede or delay the passage of boats, lighters or other vessels, or rafts of timber, up or down the stream; and the draw or gate to be constructed in such

Application for
appointment of
freeholders to as-
sess damages.

When permission
to open road to be
refused.

Proceedings of
freeholders.
2 Rev. Code 1819,
n. 233, § 2.

Who to pay dam-
ges and cost of
inquest.

Bridges not to ob-
struct navigation.

Draw bridge where to be located.

Penalty for obstructing or delaying navigation.

When right to construct bridge across southern branch of Elizabeth river to cease.

Commencement.

bridge shall be at the channel of the stream, and the said company shall cause regular and constant attendance to be given at such draw or gate to open or hoist the same for the passage of all vessels, boats, lighters or rafts navigating the stream, and on failure thereof shall forfeit and pay a sum not exceeding twenty dollars, to be recovered before any justice of the peace of said county of Norfolk, on motion, after sufficient notice of the person owning or navigating the boat, raft, lighter or vessel which shall be delayed thereby.

4. *Provided however,* That the said draw bridge company shall not by virtue of any law heretofore passed, construct any bridge across the said southern branch of Elizabeth river, at any point or points below the confluence of Deep creek, and upon their acceptance of this act, and upon the construction of the bridge above Deep creek, all right or authority to construct a bridge over said branch below Deep creek, under any existing law, shall cease and determine.

5. This act shall be in force from its passage.

CHAP. 161.—An ACT to amend an act, entitled, “an act to enlarge the powers of the county courts of Albemarle and Nelson for the purpose of opening a road from Scottsville to the head waters of Rockfish river,” passed March 22d, 1836.

(Passed April 4, 1838.)

Preamble.

Whereas by the provisions of an act passed March the twenty-second, eighteen hundred and thirty-six, “to enlarge the powers of the county courts of Albemarle and Nelson, for the purpose of opening a road from Scottsville to the head waters of Rockfish river,” it is made requisite that the courts giving the assent and apportioning and fixing the amount to be levied under the provisions of the said act, shall be composed of a majority of the acting magistrates of their county, and it has been found inconvenient to secure the attendance of such a majority: Therefore,

1. *Be it enacted by the general assembly,* That at any term of the county courts of said counties, to which all the acting justices shall have been previously summoned for that purpose, it shall be lawful for the courts, if composed of one third of the acting magistrates of their county, to give their assent, and apportion and fix the amount to be levied, in the manner and under the conditions prescribed by the said recited act; and that so much of said act as requires such courts to be composed of a majority of the acting magistrates, shall be and the same is hereby repealed.

2. This act shall be in force from its passage.

CHAP. 162.—An ACT more effectually to enable the county court of Brooke county to provide for making and repairing roads and bridges.

(Passed March 17, 1838.)

Court of Brooke county how constituted to make road levy.

1. *Be it enacted by the general assembly,* That in order to enable the county court of Brooke county more effectually to provide for the making and repairing of public roads and bridges within their county, it shall and may be lawful for the said court, all the justices of the peace for said county having been duly summoned for that purpose, a majority thereof being actually present, and three fourths of said majority concurring therein, to assess and levy upon each titheable within the county in each year a sum not exceeding two dollars, and upon all property other than titheables, such a sum as

Amount to be levied.

will make the amount arising therefrom in any one year equal as near as may be to the whole amount accruing from the levy upon titheables in such year.

2. This act shall be in force from its passage.

Commencement.

CHAP. 163.—An ACT to amend the act, entitled, “an act incorporating a company to construct a turnpike road from Lynchburg to Chilton’s tavern.”

(Passed April 4, 1838.)

Whereas it is represented to the general assembly, that the stockholders of the Lynchburg and Concord turnpike company have at sundry times made advances of money beyond the amount of each share of stock held by them, and that further advances are necessary in order to complete their road, and the said stockholders are desirous that the sums so advanced, and to be advanced, may be added to the capital heretofore subscribed, by increasing the value of each share of stock, without creating additional shares beyond the present subscription:

1. Be it therefore enacted, That the capital stock of said company shall be, and the same is hereby fixed at the sum of nine thousand one hundred and fifty dollars; and the president and directors of the company shall reckon and divide the same into shares of seventy-five dollars each; and in so doing, the advances made and to be made by the respective stockholders, shall be deemed and taken as payments on their shares of stock, at the said value of seventy-five dollars per share.

2. This act shall be in force from its passage.

Capital of company; amount of shares increased.

Commencement.

CHAP. 164.—An ACT incorporating the Pittsylvania, Franklin and Botetourt turnpike company.

(Passed February 20, 1838.)

1. Be it enacted by the general assembly, That for the purpose of constructing a turnpike road from Danville in the county of Pittsylvania, by Rocky Mount in the county of Franklin, to Fincastle in the county of Botetourt, with a branch leaving the main route at Lewis Harvey’s in Botetourt, and running to the town of Salem, it shall be lawful to open books for receiving subscriptions to the amount of forty, with the privilege of increasing it to six thousand dollars, in shares of fifty dollars each. The said books shall be opened at the Big Lick, under the direction of Frederick Johnson, Elijah M’Clanahan, Edward Watts, John P. Richardson, George P. Tayloe, William Langhorne and Thomas Fowler, or any three of them; at Fincastle, under the direction of William Radford, Henry M. Bowyer, Benjamin Carper, James Shanks, James M’Dowell, Francis T. Anderson and Fletcher F. Mayo, or any three of them; at Rocky Mount, under the direction of Richard M. Taliaferro, Robert T. Woods, Caleb Tate, John S. Burwell, James C. Tate, G. W. B. Hale, P. Dickinson, John A. Smith, Norborne M. Taliaferro and Moses C. Carper, or any three of them; at Danville, under the direction of John Dickinson, Robert W. Williams, Thomas Rawlings, Robert Wilson, John Ross and George Towns, or any three of them; at Pittsylvania courthouse, under the direction of George H. Gilmer, Coleman D. Bennett, James M. Whittle, William Rison, Jeremiah F. Johnson and William H. Tuastall, or any three of them; and at Jabez Smith’s store, under the direction of Vincent Witcher, Jabez Smith, James

Amended. See post. ch. 165, § 5.
Books for subscriptions where and by whom opened.

Hopkins, James A. Mitchell and W. B. Rogers, or any three of them.

Company incorporated.
Amended. *Post.*
ch. 165, § 2.

Name.

Regulations. 2 R.
C. 1819, pp. 211-
225.

Summer road dis-
pensed with.
Road how con-
structed.

Subscription by
board of public
works.
Amended. *Post.*
ch. 165, § 3.
Conditions.

Acts 1831-2, p. 71.

Power to increase
capital.

Commencement.

2. *Be it further enacted,* That when three-fifths of forty thousand dollars shall have been subscribed, the subscribers, their executors, administrators and assigns shall be, and are hereby declared to be incorporated into a company, by the name and style of "The Pittsylvania, Franklin and Botetourt turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies:" *Provided,* That the company may dispense with a summer or side road to their turnpike, and shall not be required to pave or cover their said road with stone or gravel, nor to clear the same wider than forty feet, nor to construct it of a greater width than eighteen feet on steep hill sides, and twenty-four feet in other parts, and that it shall no where exceed a grade of four degrees.

3. *Be it further enacted,* That the board of public works be, and are hereby authorized and directed to subscribe on behalf of the commonwealth for two fifths of the aforesaid capital stock of said company, agreeably to the terms and conditions of the act passed February the eleventh, eighteen hundred and thirty-two, entitled, "an act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth."

4. *Be it further enacted,* That the company hereby incorporated be, and they are hereby authorized to augment their capital stock, from time to time, by additional subscriptions to any amount not exceeding sixty thousand dollars.

5. This act shall be in force from its passage.

CHAP. 165.—An ACT to amend an act, entitled, "an act incorporating the Pittsylvania, Franklin and Botetourt turnpike company."

(Passed April 7, 1838.)

Value of shares of
stock reduced.

1. *Be it enacted by the general assembly,* That so much of an act passed at the present session of the general assembly, entitled, "an act incorporating the Pittsylvania, Franklin and Botetourt turnpike company," as authorizes the shares of said company, to amount to fifty dollars each, be, and the same is hereby so far repealed as to require that the stock of said company be divided into shares of twenty-five dollars each.

When company
incorporated.

2. *Be it further enacted,* That whenever shares to the amount of five thousand dollars shall have been subscribed, the subscribers, their executors, administrators and assigns shall be, and are hereby incorporated into a company, by the name and style of "The Pittsylvania, Franklin and Botetourt turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies," except so far as may be otherwise herein provided.

When board of
public works to
subscribe for
stock.

3. *Be it further enacted,* That whenever one hundred and fifty shares shall have been subscribed and paid, or secured to be paid, the board of public works are hereby authorized and required to subscribe on behalf of the commonwealth for one hundred shares, and as often as additional subscriptions to the amount of one hundred and fifty shares, shall be made by persons other than the said board, and paid, or secured to be paid, the said board are hereby authorized and required to subscribe further, as aforesaid, for an

amount equal to one hundred shares, or in like proportion to the subscriptions by persons other than the said board, until the aforesaid amount of capital shall have been subscribed; and the subscriptions by said board shall be paid in like proportions with the payments by all other subscribers; and the said board shall be entitled to all the privileges and rights in proportion to the amount of subscription actually paid by them, given by the act, entitled, "an act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth," passed February the eleventh, eighteen hundred and thirty-two.

4. *Be it further enacted*, That if said road shall not be completed within the period prescribed, the right of the company shall be forfeited only in relation to so much thereof as may not have been completed.

5. *Be it further enacted*, That so much of said act as authorizes a branch of said road from Lewis Harvey's in Botetourt, to Salem, be, and the same is hereby repealed.

6. This act shall be in force from its passage.

Commencement.

CHAP. 166.—An ACT incorporating the Buchanan and Salem turnpike company.

(Passed April 3, 1838.)

1. *Be it enacted by the général assembly*, That for the purpose of constructing a turnpike road from Buchanan in Botetourt county, by the Blue Ridge hotel, Amsterdam, Cloverdale, and the mill commonly called Harshbarger's mill, now owned by John Lejeffries, to Salem, it shall be lawful to open books for receiving subscriptions to the amount of twelve thousand dollars, in shares of fifty dollars each. The said books shall be opened at Buchanan, under the direction of John S. Wilson, Joseph K. Pitzer, John M. Harvey, Allan B. Magruder, Joseph A. Strange, or any three of them; and at Salem, under the direction of P. H. Huff, John H. Griffin, John J. F. White, William C. Williams and G. W. Shanks, or any three of them.

2. *And be it further enacted*, That when one half of the said capital shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be, and are hereby incorporated into a company, by the name and style of "The Buchanan and Salem turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies." *Provided*, That the said company shall not be required to pave or cover their said road with stone or gravel, nor to make a summer or side road thereto; that said road shall be cleared thirty feet wide, and be improved eighteen feet wide, and at a grade nowhere exceeding three and a half degrees.

3. *Be it further enacted*, That it shall be lawful for the said company, in general meeting, to augment their capital from time to time, to any amount, not exceeding twenty thousand dollars.

4. This act shall be in force from its passage.

Commencement.

Regulations. 2 B
C. 1819, pp. 211-
225.
Road how con-
structed.

CHAP. 167.—An ACT incorporating the Salem and New Castle turnpike company.

(Passed April 6, 1838.)

Route of road.

1. Be it enacted by the general assembly, That for the purpose of constructing a turnpike road from Salem in Botetourt county, by New Castle, to a point on the Sweet springs turnpike, at or near the base of Price's mountain, it shall be lawful to open books for subscriptions to the amount of ten thousand dollars, in shares of fifty dollars each. The said books shall be opened at Salem under the direction of John H. Griffin, I. F. I. White, William C. Williams, P. H. Huff and G. W. Shanks, or any three of them; and at New Castle under the direction of Jacob Hammond, John Farmer and Alexander Johnson, or any two of them.

Company incorporated.

2. Be it further enacted, That when one hundred shares shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company by the name and style of "The Salem and New Castle turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies:" *Provided,* That the said company shall not be compelled to make a summer or side road to their said turnpike, nor to cover it with stone or gravel; that it shall be cleared thirty feet wide, and be improved for a width of twenty feet, and shall no where exceed a grade of four degrees.

Power to augment capital.

3. Be it further enacted, That it shall be lawful for the said company, at any general meeting, to augment their capital to an amount not exceeding fifteen thousand dollars.

Commencement.

4. This act shall be in force from its passage.

CHAP. 168.—An ACT incorporating the Salem and Pepper's ferry turnpike company.

(Passed March 21, 1838.)

Route of road.

1. Be it enacted by the general assembly, That for the purpose of constructing a turnpike road from Salem in the county of Botetourt, by Lafayette and Blacksburg, to Pepper's ferry in Montgomery county, it shall be lawful to open books for receiving subscriptions to an amount not exceeding fifteen thousand dollars, in shares of fifty dollars each. The said books shall be opened at Salem under the direction of John H. Griffin, William C. Bowyer, John F. White, William Williams, George Shanks, John Logan and George Walton, or any three of them; at Lafayette, under the direction of Joseph Barnett, John Pepper, Charles L. Barnett and Powel Huff, or any three of them; and at Blacksburg, under the direction of William Thomas, Robert T. Preston, Edward J. Amiss, John Peterman and Adam Wells, or any three of them.

Company incorporated.

2. Be it further enacted, That when one hundred shares shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company, by the name and style of "The Salem and Pepper's ferry turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies:" *Provided,* That the company may dispense with a summer or side road to their turnpike, and shall not be required to pave or cover their road with stone or gravel, nor to clear the same wider than thirty feet, nor to construct it of a greater

Name.**Regulations.** 2
R. C. 1819, pp.
211-225.**Road how constructed.**

width than twenty-four feet, and that it shall no where exceed a grade of four degrees: *Provided*, That if that portion of said turnpike between Salem and Lafayette shall not be completed by the first day of January, eighteen hundred and forty-one, then the right of said company to make such portion shall be forfeited and cease. Charter how forfeited.

3. *Be it further enacted*, That the said company be and are hereby authorized to increase their capital stock, from time to time, to an amount not exceeding twenty thousand dollars. Power to augment capital.

4. This act shall be in force from its passage. Commencement.

CHAP. 169.—An ACT incorporating the Lafayette and English's ferry turnpike company.

(Passed March 21, 1838.)

1. *Be it enacted by the general assembly*, That for the purpose Route of road. of constructing a turnpike road from Lafayette in the county of Montgomery, by Christiansburg, to English's ferry on New river, it shall be lawful to open books for receiving subscriptions to the Capital. amount of eight thousand dollars, in shares of fifty dollars each. The said books shall be opened at Salem in Botetourt county, under Books for sub-cription. the direction of John H. Griffin, William C. Bowyer, John F. White, William Williams, George Shanks, John Logan and George Walton, or any three of them; at Lafayette, under the direction of Joseph Logan, Joseph Barnett, John Pepper, Charles L. Barnett and Powel Huff, or any three of them; at Christiansburg, under the direction of Robert Gardner, John S. Crockett, James Wade, Dene-son Baldwin, John Wade and Jeremiah Kyle, or any three of them; and at Newbern, under the direction of William B. Charlton, John D. Howe, Thomas Inglis, Philip L. Woolevine and Samuel Shields, or any three of them.

2. *Be it further enacted*, That when eighty shares shall have Company incorpo-been subscribed, the subscribers, their executors, administrators and rated. assigns, shall be and are hereby incorporated into a company, by the name and style of "The Lafayette and English's ferry turnpike Name. company," subject to the provisions of the act, entitled, "an act Prescriptions, &c. R. C. 1819, pp. 211-225. prescribing certain general regulations for the incorporation of turn-pike companies:" *Provided*, That the company may dispense with Road how con-covering the same with gravel; that the said road shall be cleared structed. thirty feet wide, and cónstructed twenty feet wide, at a grade no where exceeding four degrees.

3. *Be it further enacted*, That the said company be and they are hereby empowered to contract and agree with Henry Edmond-son and E. M'Clannahan, the proprietors of a certain turnpike road between the points aforesaid, upon the terms on which the com-pany's road may be united with the road of the said Edmondson and M'Clannahan, at either end thereof; and that the said Edmondson and M'Clannahan may be admitted as stockholders of the company, and their road be merged in and constitute a part of the said company's turnpike. Power to acquire turnpike owned by Edmondson and M'Clannahan.

4. *Be it further enacted*, That if the Salem and Pepper's ferry When company to extend their road from Lafayette to Salem. turnpike company, incorporated at the present session of the gene-ral assembly, shall fail to make that portion of their road between Salem and Lafayette, by the first day of January, eighteen hundred and forty-one, as required by their charter, then it shall and may be lawful for the company herein incorporated, to extend their turnpike

from Lafayette to Salem, and in doing so they may pursue any route which may have been occupied by the said Salem and Pepper's ferry turnpike company.

Power to augment capital. 5. *Be it further enacted,* That the company hereby incorporated are hereby empowered to augment their capital stock, from time to time, to any amount not exceeding fifteen thousand dollars.

Commencement. 6. This act shall be in force from its passage.

CHAP. 170.—An ACT incorporating the English's ferry and Tennessee turnpike company.

(Passed April 6, 1838.)

Route of road. 1. *Be it enacted by the general assembly,* That for the purpose of constructing a turnpike road from English's ferry on New river in Montgomery county, by Newbern, Evansham, Marion and Abingdon, to a suitable point on the Tennessee line, it shall be lawful to open books for receiving subscriptions to the amount of fifty thousand dollars, in shares of fifty dollars each. The said books shall be opened at Newbern, under the direction of William B. Charlton, John D. Howe, Henry Hance, Reason Vermillion and Michael Jordan, or any three of them; at Evansham, under the direction of John P. Mathews, Robert Crockett, Ephraim M'Gavock, Andrew S. Fulton and James R. Miller, or any three of them; at Marion, under the direction of James P. Strother, John W. Schoolfield, Henry R. Thompson, Robert Thurman and Edwin S. Watson, or any three of them; at Abingdon, under the direction of John M. Preston, Alexander Finley, John N. Hume, Elias Ogden and Samuel Chastain, or any three of them; and at such other places, and under the direction of such persons, as the aforesaid commissioners may appoint within their respective counties.

Company incorporated. 2. *Be it further enacted,* That when four hundred shares shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company by the name and style of "The English's ferry and Tennessee turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies." *Provided,* That the company may dispense with a summer or side road to their turnpike, and with the paving or covering the same with stone or gravel; that the said road shall be cleared thirty feet wide, and be constructed twenty feet wide, at a grade no where exceeding four degrees.

Power to augment capital. 3. *Be it further enacted,* That the said company be and are hereby empowered to augment their capital stock from time to time to any amount not exceeding seventy-five thousand dollars.

Commencement. 4. This act shall be in force from its passage.

CHAP. 171.—An ACT incorporating the Walker's creek turnpike company.

(Passed April 3, 1838.)

Route of road. 1. *Be it enacted by the general assembly,* That for the purpose of constructing a turnpike road from the plaster banks in the county of Smyth, to intersect the road leading from Giles courthouse to Newbern in the county of Montgomery, near Thomas Shannon's in Giles county, it shall be lawful to open books for receiving subscriptions to the amount of fifteen thousand dollars, in shares of fifty dollars each. The said books shall be opened at the house of

Capital.
Books for sub-
scriptions.

John Grayson in Wythe county, under the direction of **John Grayson, Ambrose Grayson and Hiram Robinet**, or any two of them; at Giles courthouse, under the direction of **Thomas Kirk, Guy D. French and Andrew Johnston**, or any two of them; at Mechanicsburg in said county of Giles, under the direction of **George D. Hoge, Lewis Neel and James Henderson**, or any two of them; at the house of **Thomas Shannon** in said county, under the direction of **Thomas Shannon, Charles King and John Johnson** (preceptor), or any two of them; at the storhouse of **Lewis D. Hancock** in Wythe county, under the direction of **Lewis D. Hancock, George Hudson, William Groseclose and John Shannon**, or any two of them; and at the storehouse of **Samuel M. Schoolfield** in Smyth county, under the direction of **Samuel M. Schoolfield, Solomon M'Daniel and Andrew H. Cox**, or any two of them.

2. Be it further enacted, That when six thousand dollars shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company by the name and style of "The Walker's creek turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies." **Provided**, That the said company shall not be compelled to make a summer or side road to their said turnpike, nor to pave nor cover the same with stone or gravel; that it shall be improved sixteen feet in width, except in difficult places, but shall no where be less than twelve feet wide. It shall be cleared thirty feet wide, and shall not exceed a grade of four degrees.

3. Be it further enacted, That the board of public works be and they are hereby authorized to subscribe on behalf of the commonwealth for two fifths of the capital stock of said company, upon the terms and provisions of the act, entitled, "an act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth," passed February the eleventh, eighteen hundred and thirty-two.

4. This act shall be in force from its passage.

Commencement.

CHAP. 172.—An ACT incorporating the Purgatory creek turnpike company.

[Passed March 29, 1838.]

1. Be it enacted by the general assembly, That for the purpose of constructing a turnpike road from a point on the Natural bridge turnpike near Retreat furnace in Botetourt county, down Purgatory creek to the Valley stage road, it shall be lawful to open books for receiving subscriptions to an amount not exceeding three thousand dollars, in shares of fifty dollars each. The said books shall be opened at Buchanan, under the direction of **William Weaver, John F. Wood and John Harvey**, or any two of them.

2. When sixty shares shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company by the name and style of "The Purgatory creek turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies." **Provided, That the said company shall not be compelled to make a summer or side road to their said turnpike, nor to pave nor cover the same with stone or gravel; that the said road shall be made sixteen feet wide, and be**

Company incorporated.

Name.

Regulations.

2 R. C. 1819,

pp. 211-225.

Road, how con-

structed.

Subscription by
board of public
works.

Conditions.

Acts 1831-2, p. 71.

Commencement.

Route of road.

Capital.

Books for sub-

scriptions.

Books for sub-

scriptions.

Company incor-

porated.

Name.

Regulations.

2 R. C. 1819,

pp. 211-225.

Road, how con-

structed.

cleared thirty feet wide, and shall no where exceed a grade of four degrees: *And provided also,* That the said road shall not occupy any part of any present public road.

3. This act shall be in force from its passage.

CHAP. 173.—An ACT incorporating the Buchanan, Fincastle and Blacksburg turnpike company.

(Passed March 27, 1838.)

Route of road.

1. *Be it enacted by the general assembly,* That for the purpose of constructing a turnpike road from Buchanan, by way of Fincastle, to Blacksburg in the county of Montgomery, it shall be lawful to open books for receiving subscriptions to the amount of twenty thousand dollars, in shares of fifty dollars each. The said books shall be opened at Buchanan, under the direction of John M. Harvey, John S. Wilson, Joseph K. Pitzer, James L. Woodville and John N. Johnson, or any three of them; at Fincastle, under the direction of James S. Walrand, James M'Dowell, Francis J. Anderson, Morgan Utz and Henry W. Bowyer, or any three of them; and at Blacksburg, under the direction of John Peterman, William Thomas, Charles Black and Edwin Amiss, or any two of them.

Company incorporated.

2. *Be it further enacted,* That when one hundred shares shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company by the name and style of "The Buchanan, Fincastle and Blacksburg turnpike company," subject to the provisions of the act, entitled, "an act prescribing general regulations for the incorporation of turnpike companies." *Provided,* That the said company shall not be compelled to pave or cover the said road with stone or gravel, nor to make a summer or side road thereto; that the said road shall be cleared thirty feet wide, and be improved and made suitable for the passage of wagons and carriages for a width of eighteen feet; and at a grade no where exceeding four degrees.

Power to augment capital.

3. *Be it further enacted,* That it shall be lawful for the said company to augment their capital stock from time to time to an amount not exceeding thirty thousand dollars; and should the Salem and Pepper's ferry turnpike company fail to comply with their charter, then it shall be lawful for the company herein incorporated to extend their road from Blacksburg to Pepper's ferry, and thence to Evansham in the county of Wythe.

Commencement.

4. This act shall be in force from its passage.

CHAP. 174.—An ACT incorporating the Blacksburg and Newport turnpike company.

[Passed April 6, 1838.]

Route of road.

1. *Be it enacted by the general assembly,* That for the purpose of constructing a turnpike road from Blacksburg in Montgomery county, to Newport in Giles county, it shall be lawful to open books for receiving subscriptions to the amount of five thousand dollars, in shares of fifty dollars each. The said books shall be opened at Blacksburg, under the direction of William Thomas, Robert T. Preston, Edwin J. Amiss, John Peterman and Adam Wells, or any three of them; at Newport, under the direction of Tyrie G. Newbill, Henley Epling, John Tawney, William H. Snidow and David Price, or any three of them; and at Giles courthouse, under the direction of Reuben F. Watts, Albert G. Pendleton, John H. But-

Capital.

Books for subscriptions.

ter, William C. Charlton and Rufus A. French, or any three of them.

2. *Be it further enacted*, That when one half the said capital stock shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be, and are hereby incorporated into a company, by the name and style of "The Blacksburg and Newport turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies." *Provided*, That the said company shall not be required to pave or cover their road with stone or gravel, nor to make a summer or side road thereto; that the said road shall be cleared thirty feet wide, and be improved for a width of eighteen feet, and at a grade not exceeding three and an half degrees.

3. *Be it further enacted*, That if neither the Salem and Pepper's ferry turnpike company, nor the La Fayette and English's turnpike company, shall construct a road from Fayette to Salem in Botetourt county, within the time required by their charters, or if both shall expressly decline to do so, then it shall be lawful for the company hereby incorporated, to extend their turnpike road on said route to Salem; and the president and directors are hereby authorized, when directed by the company, thereupon to proceed to open books at such time and places, and under the direction of such agents as they may appoint, for receiving subscriptions to an increase of their capital stock, not exceeding fifteen thousand dollars, for the purpose of extending their road as aforesaid; and the subscribers for such additional stock shall possess all the rights and privileges, and be subject to all the liabilities of the original subscribers.

4. This act shall be in force from its passage.

Commencement.

CHAP. 175.—An ACT concerning the Sweet springs and Price's mountain turnpike company.

(Passed April 5, 1838.)

1. *Be it enacted by the general assembly*, That it shall and may be lawful for the Sweet springs and Price's mountain turnpike company to keep one toll-gate only on their road, and to demand and receive thereat the following tolls, in lieu of those heretofore allowed by law, to wit: for a man and horse, twelve and a half cents; for every led or drove horse, mare or mule, ten cents; for every score of cattle or sheep, thirty cents; for every score of hogs, twenty cents, and so in proportion for a less number; for every cart or waggon, ten cents per wheel; for every two-wheeled riding carriage, twenty-five cents; for every four-wheeled riding carriage, fifty cents; and for every draught horse, mule or ox, five cents, and no more.

2. This act shall be in force from its passage.

Commencement.

CHAP. 176.—An ACT to amend the act, entitled, "an act to authorize the construction of a turnpike road from some point at or near the Sweet springs, to its intersection with the Kanawha turnpike, at or near the White Sulphur springs."

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly*, That John Crow and Henry Alexander, be, and are hereby appointed additional commissioners for road appointed.

Powers.

commissioners of the turnpike road, from a point at or near the Sweet springs, to the Kanawha turnpike at or near the White Sulphur springs, with the same powers as are conferred upon the commissioners named in the first section of the act authorizing the construction of said road, passed April the eighth, eighteen hundred and thirty-one; and any three or more of the commissioners appointed by, or by virtue of said act, or by this act, shall be sufficient to carry into effect the provisions of the aforesaid act.

Commencement.

2. This act shall be in force from its passage.

CHAP. 177.—An ACT incorporating the Sweet and Blue Sulphur springs turnpike company.

(Passed January 16, 1838.)

Route of road.

1. *Be it enacted by the general assembly,* That for the purpose of constructing a turnpike road from the Sweet springs in the county of Monroe, to intersect the Red and Blue Sulphur springs turnpike at some point near Alderson's ferry or the mouth of Wolf creek, it shall be lawful to open books for receiving subscriptions to an amount not exceeding eighteen thousand dollars, in shares of fifty dollars each. The said books shall be opened at the Sweet springs, under the direction of John B. Lewis, Philip Rogers, John Shawver, John Hull and Jacob Wickline, or any three of them; at Union, under the direction of James B. Shanklin, Benjamin F. Steele, Andrew P. Beirne, John M'Carty and Andrew Nickle, or any three of them; and at the house of Joseph Hill, under the direction of Joseph Hill, John Alderson, Andrew Miller, Joseph Alderson, William Ellis and James Hill, or any three of them.

Company incorporated.

2. When one half of the said amount of capital shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be, and are hereby incorporated into a company, by the name and style of "The Sweet and Blue Sulphur springs turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies." *Provided*, That the said company may dispense with a summer or side road to their said turnpike, and shall not be required to make the said road more than eighteen feet wide, nor to pave or cover the same with stone or gravel, and that it shall no where exceed a grade of five degrees.

Commencement.

3. This act shall be in force from its passage.

CHAP. 178.—An ACT to increase the capital stock of the Red and Blue Sulphur springs turnpike company.

(Passed March 27, 1838.)

Capital increased.

1. *Be it enacted by the general assembly,* That the Red and Blue Sulphur springs turnpike company shall be, and they are hereby authorized to increase their capital stock to the extent of nine thousand five hundred dollars, over and above the amount fixed by the act incorporating said company, to be divided into shares of fifty dollars each, and for that purpose, are hereby authorized to open books for receiving subscriptions at the same places, and upon the same terms and conditions, and under the direction of the same persons, or the survivors of them, as is provided in their said act of incorporation.

Books for subscriptions.
See post. ch. 179,
§ 4.

Commencement.

2. This act shall be in force from the passage thereof.

CHAP. 179.—An ACT incorporating the Indian Draft turnpike company.

(Passed March 28, 1838.)

1. *Be it enacted by the general assembly,* That for the purpose of Route of road. constructing a turnpike road from the Salt Sulphur springs in the county of Monroe, to intersect the Blue and Red Sulphur springs turnpike, near the mouth of the Indian Draft, it shall be lawful to open books for receiving subscriptions to the amount of seven thousand dollars, in shares of fifty dollars each. The said books shall Books for sub-scriptions. be opened at the Red Sulphur springs, under the direction of William Burke, John H. Vawter, James Harvey, William Adair, junior, and Jacob Cooke, or any three of them: *Provided*, That all subscriptions heretofore made for the purpose of constructing said road, shall be, and are hereby declared to be as good and valid as if they had been made in books opened as herein provided for; and the subscribers shall be considered as stockholders in the company herein incorporated.

2. *Be it further enacted,* That when seventy shares shall have Company incorpo-rated. been subscribed, the subscribers, their executors, administrators and assigns, shall be, and are hereby incorporated into a company, by the name, and style of "The Indian Draft turnpike company," Name. subject to the provisions of the act, entitled, "an act prescribing Regulations. 2 R. certain general regulations for the incorporation of turnpike com-^{1819, pp. 211-225}panies:" *Provided*, That the said company may dispense with a Road how con-structed. summer or side road to their turnpike, and shall not be required to pave or cover the same with stone or gravel; that said road shall be made eighteen feet wide, and at a grade no where exceeding three and a half degrees.

3. *Be it further enacted,* That the board of public works be, and they are hereby authorized, to subscribe on behalf of the common-Subscription by board of public works. wealth, for two fifths of the capital stock of said company, upon the terms of the act, entitled, "an act prescribing certain general Conditions. Acts. 1831-2, p. 71. conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth," passed February the eleventh, eighteen hundred and thirty-two.

4. *Be it further enacted,* That in order to enable the said board Board of public works to borrow money for compa-nies. See ante, ch. 12, pp. 24-27. of public works to pay the said subscriptions, and also the subscription to the stock of the Red and Blue Sulphur springs turnpike company, they are hereby empowered to borrow on the credit of the state, such sums as may be necessary therefor, agreeably to such terms and conditions as may be prescribed in any general act authorizing loans for purposes of internal improvement, passed at the present session of the general assembly; and if no such act be passed, then the said loan may be effected upon the terms contained in the act, entitled, "an act to authorize a subscription on behalf of the state to the stock of the Louisa rail-road company," passed February the twenty-fifth, eighteen hundred and thirty-seven.

5. This act shall be in force from its passage.

Commencement.

CHAP. 180.—An ACT incorporating the Pattonsburg and Rockbridge turnpike company.

(Passed April 7, 1838.)

1. *Be it enacted by the general assembly,* That for the purpose of Route of road. construcing a turnpike road from the town of Buchanan in Botetourt county, to the Rockbridge county line near Mrs. Neville's, it shall be lawful to open books for receiving subscriptions to the

Capital.

Books for sub-
scriptions.Company incorpo-
rated.

Name.

Regulations. 2 R.
C. 1819, pp. 211-
225.Road how con-
structed.Power to augment
capital.

Commencement.

Charters of com-
pany extended for
two years.Eastern point of
intersection with
valley stage road,

Commencement.

Books for sub-
scription where
and by whom
opened.

Capital.

Route of road.

amount of five thousand dollars, in shares of fifty dollars each. The said books shall be opened at Buchanan, under the direction of Joseph K. Pitzer, John M. Harvie, John S. Wilson, Edmund Pate, and James L. Woodyville, or any three of them, and at such other place or places, and under the direction of such persons as a majority of the aforesaid commissioners shall appoint.

2. Be it further enacted, That when sixty shares shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be, and are hereby incorporated into a company, by the name and style of "The Pattensburg and Rockbridge turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies." *Provided,* That the said company shall not be compelled to pave or cover their said road with stone or gravel, nor to make a summer or side road thereto; that the said road shall be cleared thirty feet wide, and be constructed twenty feet wide, and shall no where exceed a grade of four degrees.

3. Be it further enacted, That it shall be lawful for the said company, at any general meeting, to augment their capital from time to time, to an amount not exceeding eight thousand dollars.

4. This act shall be in force from its passage.

CHAP. 181.—An ACT concerning the Natural bridge turnpike company.

(Passed April 7, 1838.)

1. Be it enacted by the general assembly, That the acts passed the thirteenth of March, eighteen hundred and thirty-two, and February twelfth, eighteen hundred and thirty-three, incorporating the Natural bridge turnpike company, be, and the same are hereby continued in force for two years from the passing hereof: *Provided however,* That the eastern point of intersection of said turnpike with the main Valley stage road, shall be at or near to Galbraith's tavern, unless the commissioner or engineer laying out said turnpike shall ascertain that in order to secure the said point of intersection the road would pass over unsuitable ground and impose upon the company an increased expense in constructing it, in which case, he, the said commissioner or engineer, shall fix the eastern termination at some other more suitable place.

2. This act shall be in force from its passage.

CHAP. 182.—An ACT to incorporate the Alum spring turnpike company.

(Passed January 22, 1838.)

1. Be it enacted by the general assembly, That it shall be lawful to open books in the town of Covington in the county of Alleghany, under the direction of Isaac Steele, Robert Skeen, Andrew M. Scott and George H. Payne, or any two of them; at Goshen in the county of Rockbridge, under the direction of Joseph Bell, Robert Sterrett, William Davis and Edward M'Laughlin, or any two of them; and in Lexington in said county of Rockbridge, under the direction of William Wilson, Charles P. Dorman, John F. Cartthers and Samuel M'Dowell Moore, or any two of them, for receiving subscriptions to the amount of twelve thousand dollars, in shares of fifty dollars each, for the purpose of constructing a turnpike road from Goshen in said county of Rockbridge, by way of the Alum spring, to such point on the Lexington and Covington turnpike, as the company hereinafter incorporated may select.

2. When one hundred shares shall have been subscribed, the Company incorporated subscribers, their executors and administrators, and assigns, shall be, and are hereby incorporated into a company, by the name and style of "The Alum spring turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies." *Provided*, That the said company shall be at liberty to dispense with a summer or side road to said turnpike; that they shall not be compelled to pave or cover the same with stone or gravel, nor to make it more than eighteen feet wide, and that it shall no where exceed a grade of five degrees.

Name.
Regulations. 2
R. C 1819, pp.
211 225.
Road how con-
structed.

3. The said company shall be, and are hereby authorized, at any general meeting of the stockholders, to augment their capital from time to time, to any amount not exceeding twenty thousand dollars.

4. This act shall be in force from its passage. Commencement.

CHAP. 183.—An ACT to authorize the president and directors of the Staunton and James river turnpike company to purchase and hold land for certain purposes.

(Passed February 13, 1838.)

1. *Be it enacted by the general assembly*, That it shall and may be lawful for the president and directors of the Staunton and James river turnpike company, for and on behalf of the company, to purchase and hold so much land, not exceeding two acres in any one parcel, as they may judge necessary for tollhouses, and the accommodation of their tollgatherers: *Provided*, That it shall be the duty of the said president and directors, and they are hereby required, to sell and convey to the purchaser any parcel of land purchased as aforesaid, which shall no longer be occupied and used for the said purposes.

Power to acquire
lands for toll-
houses, &c.

2. This act shall be in force from its passage. Commencement.

CHAP. 184.—An ACT to provide for the construction of a road from Winchester to Staunton, and for other purposes.

(Passed March 24, 1838.)

1. *Be it enacted by the general assembly*, That for the purpose of making a M'Adamized road from Winchester in the county of Frederick, to Staunton in the county of Augusta, it shall be lawful to open books for receiving subscriptions to the amount of three hundred thousand dollars, to be divided into shares of twenty-five dollars each. The said books shall be opened at Winchester, under the superintendence of David W. Barton, John Bruce, Philip Williams, jr., Abram Miller, Jacob Senseny, Jacob Baker, Charles H. Clark, Bushrod Taylor, Nathan Parkins and Isaac Hollingsworth; and said commissioners, or a majority of them, shall have full power and authority to open such books at such time, and continue them open so long as they shall think proper; and also to cause books to be opened at such other places within the county of Frederick, for the purpose of receiving subscriptions to the stock of said company, as they shall designate, and to appoint suitable persons to superintend the same. Books shall also be opened at Woodstock, under the superintendence of William Moreland, John Seibert, William W. Magruder, William Ott, David Crawford, Joseph Irwin, Samuel C. Williams and James Allen; at Harrisonburg, under the superintendence of Isaac Hardesty, Samuel Shacklett, Robert Gray,

Books for sub-
scriptions, where,
when and by
whom opened.

Peachy Harrison, Edward H. Smith, John Essinger and John Kinney; and at Staunton, under the superintendence of Jefferson Kinney, Benjamin Crawford, John B. Breckenridge, William Poage, James Bell, Robert Snapp and Robert Clarke; which said commissioners, or a majority of them, so appointed for each of the said towns of Woodstock, Harrisonburg and Staunton, shall in all respects have the same power and authority within their respective counties as is conferred upon the commissioners appointed to open books of subscriptions at Winchester.

- Company incorporated.** *2. Be it further enacted,* That when shares to the amount of forty thousand dollars shall have been subscribed, the subscribers thereto, their executors, administrators or assigns, shall be incorporated by the name and style of "The Valley turnpike company," subject to all the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies," and the several acts amendatory thereof, and of the "act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth," passed February the eleventh, eighteen hundred and thirty-two, not inconsistent with the provisions of this act: *Provided*, That the company shall be at liberty to dispense with a summer or side road to the said turnpike, whenever they may deem it expedient to do so; nor shall they be compelled to make the said road more than forty feet wide, eighteen feet whereof at least shall be paved or M'Adamized not more than twelve inches thick: *And provided further*, That said company shall be required to commence the said road at Winchester.
- Name.** *3. Be it further enacted,* That said company may construct the said road along the site of the present stage road from Winchester to Staunton, passing through the principal towns and villages on the said road, and as near the site thereof throughout the whole, as the president and directors of the said company may prescribe; and the graduation of said road shall in no part exceed three and a half degrees: *Provided*, That in the construction of the same, no hindrance or obstruction to the trade upon the said stage road shall be understood as authorized by this act; and in the event of the necessity of occupying existing roads or ways, the said company is hereby required, before doing so, to provide other roads or ways equally good, and are hereby authorized to have assessments and condemnation of land for such purpose, in the manner now prescribed by law in other cases.
- Regulations.** *4. Be it further enacted,* That as soon as shares to the amount of forty thousand dollars shall be subscribed and paid for, or secured to be paid, the board of public works is hereby authorized and required to subscribe on behalf of the commonwealth for a number of shares equal to sixty thousand dollars; and as often thereafter as additional subscriptions shall be made to the stock of the said company by individuals, and paid, or secured to be paid, to the amount of twenty thousand dollars, the board of public works is hereby authorized and required to subscribe on behalf of the commonwealth the further sum of thirty thousand dollars, or in like proportion to the subscription by individuals, until the whole amount of the capital stock of said company shall be filled up, and provided the subscriptions hereby required to be made by the board of public works shall be paid in in instalments in the like proportions

and at the same periods with the payments of individual subscriptions.

5. *Be it further enacted,* That in the event of said road not being completed within the period provided by law, the right of the company shall be forfeited only in relation to such portion of the same as may not have been completed.

6. *Be it further enacted,* That the company hereby incorporated shall have power, in the event of the whole amount of stock hereby authorized to be created not being subscribed before the organization of said company, to cause books to be opened at such times and places as the president and directors of said company shall prescribe, for the purpose of receiving additional subscriptions of stock to the capital of said company, and shall appoint suitable persons to superintend the same; which said books may be kept open as long as the said president and directors shall think proper; and the subscribers thereto, their executors, administrators or assigns, shall be admitted in all respects to a full and equal participation with the original stockholders, in all the rights, powers and privileges appertaining to them, except that they shall not be allowed to participate in the dividends or profits which may have accrued prior to the payment of their subscriptions.

7. *Be it further enacted,* That it shall be the duty of the board of public works to appoint a competent engineer to locate and superintend the construction of said road, subject to the limitations herein prescribed.

8. *Be it further enacted,* That for the purpose of constructing a M'Adamized road from Martinsburg in Berkeley county to Winchester, it shall be lawful to open books for receiving subscriptions to the amount of sixty thousand dollars, in shares of twenty-five dollars each. The said books shall be opened at Martinsburg, under the direction of Elisha Boyd, Philip C. Pendleton, Isaac S. Lauck, Tillotson Fryatt and John K. Wilson; and the said commissioners, or a majority of them, shall have full power and authority to open such books at such time, and continue them open so long as they shall think proper; and also to cause books to be opened at such other places within the county of Berkeley, for the purpose of receiving the said subscriptions, as they shall designate, and to appoint suitable persons to superintend the same. When shares to the amount of eighteen thousand dollars shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company by the name and style of "The Martinsburg and Winchester turnpike company," with all the rights, powers and privileges, and subject to all the restrictions and liabilities herein given to and imposed upon the aforesaid "Valley turnpike company."

9. *Be it further enacted,* That so soon as shares to the amount of twelve thousand dollars shall be subscribed and paid, or secured to be paid, the board of public works is hereby authorized and required to subscribe on behalf of the commonwealth for a number of shares equal to twelve thousand dollars; and as often as additional subscriptions to said stock shall be made by persons other than said board, and paid or secured to be paid, to the said amount of twelve thousand dollars, the said board is hereby authorized and required to subscribe as aforesaid the further sum of eighteen thousand dollars, or in like proportion to the subscriptions by persons

Forfeiture of charter.

Books for additional stock to be opened.

Rights of new subscribers.

Road, how located and superintended.

Books for subscriptions to road from Martinsburg to Winchester.

Capital. By whom and where books to be opened.

Company incorporated.

Name. Rights, powers and privileges.

Subscription by board of public works.

other than said board, until the whole amount of capital stock of said company shall be subscribed; and the payment of said subscriptions by such board shall be in like proportion and at the same periods with payments of all other subscribers.

Board of public works to borrow money.

10. *Be it further enacted*, That the board of public works be and they are hereby authorized to borrow such sum or sums of money as may be necessary to pay the subscriptions hereby authorized to be made, according to the provisions of any general law which may be passed by the present general assembly; and if no such law be passed, then according to the provisions of the law now in force.

Interest to be paid for loan.

11. *Provided*, That the board of public works shall not be at liberty to borrow the sum of money necessary to pay the subscription of the state to the stock of said road, at a rate of interest exceeding five per centum per annum, unless otherwise authorized by law: *And provided moreover*, That the right is hereby reserved to the legislature to regulate the tolls on said road from time to time, in such manner as they may deem expedient.

Commencement.

12. This act shall be in force from its passage.

CHAP. 185.—An ACT to authorize the common council of the corporation of Winchester to subscribe to the stock of the Valley turnpike company.

(Passed April 6, 1838.)

Corporation of Winchester to subscribe to Valley turnpike.

1. *Be it enacted by the general assembly*, That the common council of the corporation of Winchester be and they are hereby authorized to subscribe on behalf of the said corporation, for any number of shares of stock of the Valley turnpike company, not exceeding four hundred, out of the stock authorized to be subscribed by individuals, and to borrow from time to time such sums of money as may be required to pay for said shares of stock, and to issue scrip or certificates for the sums so borrowed; and also to levy, assess and collect such taxes as they may deem necessary and proper for the purposes of paying the interest and redeeming the principal of any loan or loans which they may negotiate by virtue of this

Assent of qualified voters of town required.

Provided however, That no such subscription shall be made until the same shall be assented to by a majority of the votes which shall be given by the qualified voters of said corporation, at a poll to be held for that purpose, the time and mode of holding such poll to be prescribed by the said common council.

Commencement.

2. This act shall be in force from and after the passage thereof.

CHAP. 186.—An ACT incorporating the Moorfield and Alleghany turnpike company.

(Passed March 31, 1838.)

Route of road.

1. *Be it enacted by the general assembly*, That for the purpose of constructing a turnpike road from Moorfield to intersect the North-western turnpike road in the Alleghany mountains, on the location made by James D. Brown, civil engineer, it shall be lawful to open books for receiving subscriptions to the amount of fifteen thousand dollars, in shares of twenty-five dollars each. The said books shall be opened at Moorfield, under the direction of William Seymour, Thomas Maslin, George C. Harness and James Miles, or any two of them; at Petersburg, under the direction of Jacob K. Chambers, John Seymour, Jesse Hutton and Gabriel T. Barbee, or any two of them; at John D. Miles's store, under the direction

Capital.

Books for subscription.

of John D. Miles, James S. Miles, James Williams and Martin M'Nemar, or any two of them; at the house of Solomon Michaels, under the direction of Henry Smith, William Stingley and Solomon Michaels, or any two of them; and at the house of Joseph Neville, under the direction of Francis Idleman, Joseph Neville and John Kitzmiller, junior, or any two of them.

2. *Be it further enacted*, That when six thousand dollars shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company, by the name and style of "The Moorfield and Alleghany Name turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies:" *Provided*, That the said company shall not be compelled to make a summer or side road to their said turnpike, nor to pave or cover the same with stone or gravel; that the said road shall be sixteen feet wide, except in difficult places, but in no place less than twelve feet wide; that it shall be cleared thirty feet wide wherever it is practicable to do so, and shall no where exceed a grade of four degrees.

3. *Be it further enacted*, That the board of public works be and they are hereby authorized to subscribe on behalf of the commonwealth, for three hundred and sixty shares of the capital stock of said company, agreeably to the provisions of the act, entitled, "an act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth," passed February the eleventh, eighteen hundred and thirty-two, due regard being had to the proportions of capital stock so to be subscribed for by said board.

4. This act shall be in force from its passage.

Commencement.

CHAP. 187.—AN ACT to provide for the construction of a road from Moorfield to the North-western turnpike.

(Passed April 5, 1838.)

1. *Be it enacted by the general assembly*, That for the purpose of constructing a turnpike road from Moorfield to the North-western turnpike at Charles Blue's in Hampshire county, it shall be lawful to open books for receiving subscriptions to the amount of twenty-eight thousand dollars, in shares of twenty-five dollars each. The said books shall be opened at Moorfield, under the direction of George C. Harness, Samuel H. Alexander, Thomas Maslin and John M'Dowell, or any two of them; at the house of Samuel Bean in Hardy county, under the direction of Samuel Bean, Benjamin Bean, senior, and Ezekiel Burch, or any two of them; at the house of Elisha Thompson in Hampshire county, under the direction of Elisha Thompson, Henry Richards and Thomas Tucker, or any two of them; and at the house of Charles Blue, under the direction of Charles Blue, Cornelius Baker and Alexander Poston, or any two of them.

2. *Be it further enacted*, That when ten thousand dollars shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company, by the name and style of "The North river and Moorfield Name turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies:" *Provided*, That the said company shall

Company incorporated.

Regulations.
2 R. C. 1819, pp.
211-225.

Road how constructed.

Subscription by board of public works.

Conditions.
Acts 1831-2, p. 71.

Route of road.

Books for subscriptions.

Capital.

Books for subscriptions.

Route of road.

Books for subscriptions.

not be compelled to pave or cover the said road with stone or gravel, nor to make a summer or side road thereto; that the said road shall be cleared forty feet wide, and be constructed eighteen feet wide, except in difficult places, but shall no where be less than twelve feet wide, and shall not exceed a grade of four degrees.

Subscription by
board of public
works.
Conditions.

Acts 1831-2, p. 71.

Commencement.

3. *Be it further enacted*, That the board of public works be and are hereby directed to subscribe on behalf of the commonwealth, for two fifths of the capital stock of said company, agreeably to the act passed February the eleventh, eighteen hundred and thirty-two, entitled, "an act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth."

4. This act shall be in force from its passage.

CHAP. 188.—An ACT incorporating the Cacapon and North Branch turnpike company.

(Passed April 3, 1838.)

Route of road.

1. *Be it enacted by the general assembly*, That for the purpose of constructing a turnpike road from the Cacapon bridge on the North-western turnpike in the county of Hampshire, to some point on the North branch of Potowmac at or near Cumberland, it shall be lawful to open books for receiving subscriptions to the amount of thirty thousand dollars, in shares of fifteen dollars each. The said books shall be opened at Frankfort in the county of Hampshire, under the direction of William A. Heiskell, Charles Keller and Ephraim Dunn, or any two of them; at the North river mills, under the direction of Christopher Heiskell, Walker Louthan and John Hiatt, or any two of them; at Winchester, under the direction of John W. Miller, Bushrod Taylor and John Brannon, or any two of them; and at Wheeling, at the store of Heiskell & Hoff, under the direction of Samuel Ott, Otho W. Heiskell and Edwin S. Hoff, or any two of them.

Company incorporated.

2. *Be it further enacted*, That when ten thousand dollars shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company, by the name and style of "The Cacapon and North Branch turnpike company," subject to the provisions of the act, entitled, "an act prescribing certain general regulations for the incorporation of turnpike companies." *Provided*, That the said company shall not be compelled to make a summer or side road to their said turnpike, nor to pave or cover the same with stone or gravel; that the said road shall be cleared thirty feet wide, and be improved for a space not less than twelve feet wide nor more than sixteen feet, and at a grade no where exceeding four and one half degrees.

Subscription by
board of public
works.

Conditions.

Acts 1831-2, p. 71.

3. *Be it further enacted*, That the board of public works be, and they are hereby authorized and directed to subscribe, on behalf of the commonwealth, for two fifths of the capital stock of said company, agreeably to the terms and conditions of the act, entitled, "an act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth," passed February the eleventh, eighteen hundred and thirty-two.

Commencement.

4. This act shall be in force from its passage.

CHAP. 189.—An ACT to incorporate the Middletown and Wheeling turnpike company.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That for the purpose Route of road of constructing a turnpike road from the North-western turnpike, at the Tygart's valley bridge, by way of Middletown, to Wheeling, it shall be lawful to open books for receiving subscriptions to the Capital. amount of thirty thousand dollars, in shares of twenty dollars each. The said books shall be opened at Middletown, under the direction Books for sub- of Thomas Barnes, John S. Smith, Job Springer, C. C. Vanzant, scriptions. John S. Barnes and Mathew Fleming, or any three of them; and at such other place or places, and under the direction of such persons, as a majority of the aforesaid commissioners shall appoint.

2. *Be it further enacted,* That when five hundred shares shall Company incorpo- have been subscribed, the subscribers, their executors, administra- rated. tors and assigns, shall be and are hereby incorporated into a com- pany, by the name and style of "The Middletown and Wheeling Name. turnpike company," subject to the provisions of the act, entitled, Regulations. 2 R. C. 1819, pp. "an act prescribing certain general regulations for the incorpora- 211 225. tion of turnpike companies." *Provided,* That the said company Road how con- shall not be compelled to make a summer or side road to their said structed. turnpike, nor to pave or cover it with stone or gravel; that the said road shall be cleared thirty feet wide, and be improved for a width of eighteen feet, except at difficult places, but shall no where be less than twelve feet wide, and shall not exceed a grade of four degrees.

3. This act shall be in force from its passage.

Commencement.

CHAP. 190.—An ACT incorporating the Holliday's Cove turnpike company.

[Passed March 2, 1838.]

1. *Be it enacted by the general assembly,* That for the purpose Route of road of constructing a turnpike road from the lands of Jesse Edgington on the Ohio river, in the county of Brooke, through Holliday's Cove, on the present route as far as practicable, to the Pennsylvania line, at the terminating point of the turnpike road leading to Pittsburg, it shall be lawful to open books for receiving subscriptions to the amount of ten thousand dollars, in shares of fifty dollars each. The Capital. Books for sub- said books shall be opened under the direction of Jesse Edgington, scriptions. John Hindman, senior, Greenberry Wilcoxen, James Gardner, Andrew Henderson, David Snyder, senior, James Atkinson, Arthur Shearer, James W. Brown, Augustus M. Heslop, Oliver Brown, Robert Wylie and James Patterson, or any three of them, at such places as may deemed proper.

2. *Be it further enacted,* That when one half of the aforesaid Company incorpo- amount shall have been subscribed, the subscribers, their executors, rated. administrators and assigns, shall be, and they are hereby incorpo- rated into a company, by the name and style of "The Holliday's Name. turnpike company," subject to the provisions of the act, enti- Regulations. 2 R. C. 1819, pp. 211- tled, "an act prescribing certain general regulations for the incor- 225. poration of turnpike companies." *Provided,* That the said com- Road how con- pany shall not be required to clear the said road more than forty structed. feet wide, nor shall they clear it less than twenty feet wide, nor shall they be compelled to make a summer or side road to their said turnpike.

Power to augment capital. 3. *Be it further enacted*, That the said commissioners be, and they are hereby empowered to augment their capital stock from time to time to any amount not exceeding twenty-five thousand dollars.

Subscription by board of public works. 4. *Be it further enacted*, That the board of public works be, and they are hereby authorized to subscribe on behalf of the commonwealth, for two fifths of the capital stock of said company, upon the terms and conditions of the act passed February the eleventh, eighteen hundred and thirty-two, entitled, "an act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth."

Conditions. *Acts 1831-2, p. 71.* 5. This act shall be in force from the passage thereof.

CHAP. 191.—An ACT to provide for the payments of the state subscription to the stock of the Charleston and Point Pleasant turnpike company.

(Passed March 7, 1838.)

Board of public works authorized to borrow money for Charleston and Point Pleasant turnpike. See *acts, ch. 12, pp. 24-27.* 1. *Be it enacted by the general assembly*, That in order to enable the board of public works to pay the subscription on behalf of the commonwealth, to the stock of the Charleston and Point Pleasant turnpike company, the said board be, and they are hereby authorized to borrow such sum or sums as may be necessary therefor, agreeably to such terms as may be prescribed for loans for purposes of internal improvement in any general act passed at the present session of the general assembly. But if no such act be passed, then the said board are hereby authorized to effect such loan or loans upon the terms and conditions prescribed by the act, entitled, "an act to authorize a subscription on behalf of the state to the stock of the Richmond and Petersburg rail-road company," passed January the seventeenth, eighteen hundred and thirty-seven.

Commencement. 2. This act shall be in force from its passage.

CHAP. 192.—An ACT to amend the act, entitled, "an act incorporating the Middle island creek turnpike company."

(Passed April 3, 1838.)

Capital reduced. 1. *Be it enacted by the general assembly*, That the capital stock of the Middle island creek turnpike company, be, and is hereby reduced and limited to the sum of twelve thousand dollars; and when one hundred and forty-four shares thereof shall have been subscribed, the subscribers, their executors, administrators and assigns, shall be, and are hereby declared to be incorporated, agreeably to the charter of said company, passed March the first, eighteen hundred and thirty-seven.

Point of termination of road. 2. *Be it further enacted*, That the point of termination of said road on the Ohio river, shall be, and is hereby fixed at the mouth of Green's run, instead of the point designated in the aforesaid act. **How constructed.** The said road shall be cleared sixty feet wide, and be improved and made suitable for wagons and other wheel carriages, for a width of eighteen feet, except in difficult places, but shall nowhere be less than fourteen feet wide.

Commencement. 3. This act shall be in force from its passage.

CHAP. 193.—An ACT concerning the bridge erected over Staunton river by the Pittsylvania and Lynchburg turnpike company.

[Passed March 29, 1838.]

1. *Be it enacted by the general assembly,* That if any person shall carry fire on or across the bridge erected over the Staunton river, by the Pittsylvania and Lynchburg turnpike company, or shall make or kindle a fire in the open air within sixty feet of such bridge, he shall, (if a free person,) for every offence be liable to a penalty of five dollars, recoverable before any justice of the peace of this commonwealth, or if a slave, be punished at the discretion of such justice, with not less than ten, nor more than thirty-nine stripes. Penalty for carrying or kindling fire on or near bridge. Punishment on slaves.

2. This act shall be in force from its passage.

Commencement.

CHAP. 194.—An ACT incorporating the New river tollbridge company.

[Passed March 19, 1838.]

1. *Be it enacted by the general assembly,* That it shall be lawful to open books at Giles courthouse, under the direction of Samuel Park, William Charlton and Thomas Kirk, or any two of them; and at Newport in Giles county, under the direction of Tyree G. Newbill, John J. Young and Isaac Epling, or any two of them, on the fourth Thursday in April next, or on some subsequent day to be recited by said commissioners, due notice thereof having been given by advertisement at the courthouse of said county, for receiving subscriptions to the amount of twelve thousand five hundred dollars, to be divided into shares of fifty dollars each, for the purpose of erecting a tollbridge across New river, at the point at which the road from Price's turnpike to Cumberland gap will reach said river. In receiving said subscriptions, David I. Chapman and Christian L. Snidow, the proprietors of a ferry near the contemplated site of said bridge, shall first be allowed the privilege of subscribing for as many shares as they may desire, and their subscriptions shall be received for the residue of said amount of capital. Books for subscription where and by whom opened. Right of Chapman and Snidow to subscribe.

2. So soon as one hundred and fifty shares shall have been subscribed, the before named commissioners shall call a general meeting at some suitable place, named in a public notice given as aforesaid, to constitute which, *or* any general meeting of the stockholders of the company, the presence of proprietors entitled to a majority of all the votes that can be given, shall be necessary, either in person or by proxy properly authorized; and if a sufficient number do not attend on any day appointed for a general meeting, the proprietors who do attend, may adjourn from time to time, until a general meeting be had. From the time of the said first general meeting, the subscribers, their heirs and assigns, shall be and are hereby incorporated into a company, by the name and style of "The New river tollbridge company," and by that name shall have Name. perpetual succession and a common seal, and may sue and be sued, General powers. plead and be impleaded, in any court of law or equity.

3. *Be it further enacted,* That the stockholders, at the first general meeting aforesaid, and at all subsequent annual general meetings which shall be held on such day in each year, as the by-laws may prescribe, shall elect five directors, who shall be stockholders, and who shall, as soon as may be, elect one of their own body president: and the president and directors shall remain in office one year, and until their successors be appointed. President and directors how chosen. Tenure of office. Ratio of votes.

other questions, each stockholder shall be allowed one vote for every share as far as five shares, and one vote for every five shares thereafter.

**Powers and duties
of president and
directors.**

4. *Be it further enacted,* That the president and directors shall have power to make all contracts for the construction of said bridge, and to transact all the business of the company during the intervals between the general meetings; to appoint such officers as may be deemed necessary, and to fix their salaries; to fill vacancies in their own body, occurring between the periods of general meeting; to require from the stockholders, from time to time, such advances of money upon their respective shares, as the wants of the company may demand, until the whole of their subscriptions are paid; and to adopt such rules and regulations, not contrary to the laws of this state or of the United States, subject to alteration or repeal by the stockholders in general meeting, or they may think necessary and proper for the well ordering the affairs of the company. If any stockholder shall fail to pay the sum at any time required by the president and directors, it shall be lawful for them, the said president and directors, to sell at public auction, and convey to the purchaser, the share or shares on which the sum or sums required shall not have been paid, twenty days notice of the sale having been given in the most convenient newspaper; and if said sale shall not produce the sum or sums required to be advanced, with the expenses attending the sale, the president and directors may recover the balance of the delinquent stockholder, by motion, on ten days notice, before a court of record having jurisdiction, or before a justice of the peace. The president and directors shall cause certificates of the shares of the stock held in said company, to be made out and delivered to each stockholder, in such form as the by-laws may prescribe, which certificate shall be assignable, subject, however, to all payments due, or to become due; and any assignment shall be entered in a book to be kept for that purpose by the president and directors.

**Certificates of
stock.**

Assignable.

**Bridge how to be
constructed.**

Tolls allowed.

**Power to regulate
tolls reserved.**

**Penalty for exact-
ing illegal tolls.**

**Time for com-
mencing and com-
pleting bridge.**

5. *Be it further enacted,* That the said bridge shall be built upon such plan as shall be approved by the engineer, and the two assistant directors of the road from Price's turnpike to Cumberland gap; and when completed, the said president and directors may demand and receive the following tolls for passing the same, to wit: for a man six and one fourth cents; for every horse, mule, or work ox, six and one fourth cents; for all riding carriages, wagons and carts, six and one fourth cents per wheel; for every head of neat cattle two cents; for every score of sheep or hogs twenty cents, and so in proportion for a less number: *Provided*, That the general assembly shall at all times have power to regulate the said tolls as may be deemed proper. If the collector of tolls at said bridge shall demand and receive from any person greater tolls than are hereby allowed, the president and directors shall, for every offence, forfeit and pay to the party aggrieved, the tolls demanded and received, and ten dollars, recoverable with costs before any justice of the peace of the county of Giles.

6. *Be it further enacted,* That if the said president and directors shall not begin the said bridge within one year after the aforesaid road shall have been located to the margin of the river, and complete it within two years thereafter, the said company shall be deprived of the benefit of this act. And if the said president and

directors shall fail to keep the said bridge in proper repair for safe passage for a period of one month, they shall forfeit and pay the sum of ten dollars for every twenty-four hours it may thereafter remain out of repair, and be moreover liable to the party injured thereby for damages; all which penalties may be recovered, either before some justice of the peace, or by action of debt in any court of record having competent jurisdiction.

7. *Be it further enacted,* That the said president and directors shall render distinct accounts of their receipts and disbursements to each annual meeting of the stockholders; and after the bridge is completed, they shall semi-annually declare and make such dividends of the nett profits from the tolls as may not be required for repairs, amongst the stockholders in proportion to their respective shares.

8. *Be it further enacted,* That if the said president and directors cannot agree with the proprietors of the lands necessary for the abutments of said bridge, and for a toll-house, for the purchase thereof it shall be lawful for them to apply to and obtain from the county court of the county of Giles, a writ of *ad quod damnum*, directed to the sheriff of said county, commanding him to summon and impanel twelve disinterested freeholders of his county, of kin to none of the parties, on a day to be appointed by said court, and inserted in said writ, who being sworn by a justice of the peace of the county, and charged by the sheriff for that purpose, shall lay out and assess the value of so much land, not exceeding half an acre for each abutment, and one acre for a toll-house, as may be requisite for such purposes, which damages, so assessed, shall be certified under the hands and seals of the jurors and sheriff, and be returned by the sheriff to said court, to be there recorded; and upon the payment of the said damages, the title in and to the said land shall be vested in the said company so long as the bridge shall continue in use for the benefit of the public.

9. *Be it further enacted,* That nothing herein contained shall be construed as to take away or impair the right of the general assembly, or of any company to whom the power may be given, to improve the navigation of said river in any manner that may be deemed advisable.

10. This act shall be in force from its passage.

Commencement.

CHAP. 195.—AN ACT incorporating the South Shenandoah toll-bridge company.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That it shall be lawful to open books at the town of Harrisonburg, under the direction of Samuel Shacklett, Isaac Hardesty, John H. Campbell, J. F. Effinger and John Chrisman, any three of whom may act, on or before the first day of September next, three weeks notice thereof being first given in a newspaper published in the said town, for receiving subscriptions to the amount of five thousand dollars, in shares of twenty-five dollars, for the purpose of erecting a toll-bridge across the South Shenandoah river in the county of Rockingham, at such point as the company herein incorporated may judge most suitable for a connexion with the road contemplated to be constructed across the Blue Ridge at Simmons's gap.

First general meeting.

2. Be it further enacted, That so soon as sixty shares shall have been subscribed as aforesaid, such of said commissioners as may act in receiving subscriptions, shall call a general meeting of the subscribers at Harrisonburg, notice whereof shall be given in manner aforesaid. To constitute such meeting, or any subsequent general meeting, the presence of stockholders entitled to a majority of all the votes that could be given, shall be necessary either in person or by proxy duly authorized. If a sufficient number do not attend on the day appointed for a general meeting, those who do attend may adjourn from time to time until a general meeting shall be formed.

Company incorporated.

From and after the time of the said first general meeting, the subscribers, their heirs and assigns, shall be and are hereby incorporated into a company by the name and style of "The South Shenandoah toll-bridge company;" and by that name shall have perpetual succession and a common seal, with power to sue and be sued, plead and be impleaded, in any court of law or equity: and all the provisions of the act, entitled, "an act to incorporate the North river bridge company," passed March the thirtieth, eighteen hundred and thirty-seven, and the powers and duties therein prescribed to the company, their president and directors, and the respective stockholders, shall be deemed and taken to apply as effectually to this act, to the company hereby incorporated, and to the president and directors and stockholders thereof, as if the same were specially recited herein.

How constituted.

Name.

General powers.

President and directors, their powers and duties, requirements, &c.
Acts 1836-7, pp. 160 162.

Proceeds of lottery to be paid to company.

3. Be it further enacted, That such of the commissioners appointed by an act passed February the twenty-seventh, eighteen hundred and thirty-two, entitled, "an act to authorize a lottery for raising money to construct a bridge across the South Shenandoah river in the county of Rockingham," as have in their hands or are responsible for the money raised under authority of said act, or any portion thereof, be and are hereby authorized and directed to pay over the same to the president and directors of the company hereby incorporated, or their duly authorized agent; and such money shall constitute a part of the capital stock of said company, and shall be applied to the construction of their bridge. No votes shall be given upon the amount so paid, but dividends amongst the stockholders shall be declared in the same manner as if the whole capital stock had been subscribed by them.

How applied.

Dividends.

Subscription by board of public works.

Conditions.
Acts 1831-2, p. 71.

Commencement.

4. Be it further enacted, That the board of public works be and are hereby authorized and directed to subscribe on behalf of the state for eighty shares of the capital stock of the company hereby incorporated, agreeably to the terms of the act, entitled, "an act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth," passed February the eleventh, eighteen hundred and thirty-two.

5. This act shall be in force from its passage.

CHAP. 196.—An ACT to revive and amend an act to incorporate a company to construct a toll-bridge across the Shenandoah river at Harper's Ferry.

(Passed March 26, 1838.)

Books for subscription, where and by whom to be opened.

1. Be it enacted by the general assembly, That it shall be lawful to open books at Harper's Ferry in the county of Jefferson, under the direction of Joseph G. Hays, William Chambers and Adam Rulman, or any two of them; and at Hillsborough in the county

of Loudoun, under the direction of William Clendening, John Connard and James C. Janney, or any two of them, at as early a day as practicable, for receiving subscriptions to the amount of twelve capital thousand dollars, in shares of twenty-five dollars each, for the purpose of erecting a toll-bridge across the Shenandoah river at or near the town of Harper's Ferry. The said subscriptions shall be made Subscriptions, and a general meeting be called conformably in all respects with how made. the provisions of the act, entitled, "an act to incorporate a company to construct a toll-bridge across the Shenandoah river at Harper's Ferry," passed March twenty-second, eighteen hundred and thirty-six; and from and after the time of such general meeting, which shall be held on the first Monday in April next, or as soon thereafter as the same can be effected, the subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company by the name and style of "The Shenandoah bridge company at Harper's Ferry," with all the powers and privileges, and subject to all the restrictions and liabilities prescribed in the aforesaid act: *Provided*, That the said bridge shall be built of new and sound materials.

2. This act shall be in force from its passage.

Commencement.

CHAP. 197.—An ACT to amend an act, entitled, "an act to raise money by lottery to build a bridge across North river at or near Gratton's ford in the county of Rockingham," passed January 20th, 1832.

(Passed March 6, 1838.)

1. *Be it enacted by the general assembly,* That Edward H. Smith, Martin Miller and Stephen Rodecap, be and they are hereby appointed commissioners, a majority of whom may act, with full power and authority to contract with some fit and proper person or persons to repair the road leading from a bridge now building across the North river in the county of Rockingham, at the narrow passage below the town of Mount Crawford, to where that road intersects the road leading from Staunton to Winchester, and to repair or build such bridge or bridges thereon, as the said commissioners may direct: they taking bond or bonds from the contractor or contractors, with good and sufficient security, conditioned for the due and faithful execution of his or their contract within such time and in such manner as they may direct, and in such penalty as will be sufficient to cover any default, made payable to said commissioners, or to a majority of them undertaking to act in this behalf, and to their successors, to be appointed in the manner hereinafter directed. Suits may be brought and maintained on the said bond or bonds, at the relation of any person or persons appointed for that purpose by the court of the county of Rockingham, for any breach of the condition thereof; and any money not exceeding the penalty of the bond or bonds, recovered from the said contractor or contractors, or any of them, or any one or more of their or either of their securities, shall be applied under the provisions of this act to the purpose of repairing the road aforesaid, and building such bridges thereon as may be necessary, by any person or persons so appointed by the court.

2. That in case of the death, resignation, removal, refusal to act, or inability of any one or more of the commissioners named in the first section of this act, it shall be lawful for the county court of the said county, and they are hereby required to supply any vacancy Vacancies among commissioners how supplied.

occasioned by any of the aforesaid causes; and the person or persons so appointed to fill a vacancy or vacancies, shall have the same power under this act as if he or they had been named as commissioner or commissioners herein.

Proceeds of lottery to be paid to commissioners.

If not paid, how to be recovered.

Bonds required of commissioners.

Money received by commissioners how to be applied.

Commencement.

3. *Be it further enacted*, That the commissioners appointed by the act, entitled, "an act to raise money by lottery to build a bridge across North river at or near Grattan's ford in the county of Rockingham," passed January the twentieth, eighteen hundred and thirty-two, be, and they are hereby required to pay over to the commissioners appointed by this act, the sum raised by them by a sale of a scheme for a lottery authorized by the above recited act, instead of applying it as directed by the fourth section of that act, and shall take a receipt for the same, which receipt shall fully discharge them from all responsibility under the said recited act. In the event of the failure or refusal of the said commissioners to pay over to the commissioners appointed by this act the amount of money received by them as aforesaid, the commissioners herein appointed, or such of them as act, may maintain a suit on the bond executed by the said commissioners under the aforesaid act, and recover such amount of principal and interest or damages as a jury may assess.

4. *Be it further enacted*, That before the said commissioners herein appointed, or any of them, shall receive, or authorize or permit any other person or persons to receive, the money herein directed to be paid them, or before they institute any suit for the same, they, or a majority of them so acting in this behalf, shall enter into bond with good and sufficient security, to be adjudged of by the court of the said county, in a penalty equal at least to double the sum to be paid them, made payable to the governor of the commonwealth of Virginia for the time being, and his successors in office, conditioned for the faithful application of the money according to the provisions of this act. Upon the receipt of the money by the said commissioners, they shall first pay to the contractors for repairing the road and building the bridge or bridges aforesaid, the amount that may be due thereon under their contract, and the balance, if any, they shall apply towards the discharge of the amount which may be due to the builder of the bridge across the North river in the said county of Rockingham, at the narrow passage below the town of Mount Crawford.

5. This act shall be in force from its passage.

CHAP. 198.—An ACT incorporating the Dragon swamp navigation company.

(Passed April 3, 1838.)

General meeting of subscribers, how called.

Company incorporated.

Name. President and directors, how elected and removed.

1. *Be it enacted by the general assembly*, That the trustees of the Dragon swamp be and they are hereby directed to call a meeting of the several persons who have made subscriptions for opening and improving the navigation of said swamp, their executors, administrators and assigns, at such convenient time and place as they shall designate in a notice given one month before the time of meeting, in some newspaper printed in the city of Richmond. They shall present to such meeting a list of the subscribers, with the amount subscribed by each; and from and after such meeting, the said subscribers, their executors, administrators and assigns, shall be and are hereby incorporated into a company by the name and style of "The Dragon swamp navigation company." The said company shall at the general meeting aforesaid, and annually thereafter, at

such time as may be appointed by the by-laws of the company, elect a president and five directors, who shall continue in office until the next annual election, and until their successors shall be elected; but they or any of them may at any time be removed, and the vacancy or vacancies be filled by a majority of the votes given at any intervening general meeting. The said company shall possess all General powers. the rights and privileges, and be subject to all the liabilities of a body politic in law, and shall have perpetual succession, may sue and be sued, plead and be impleaded, with power to make and use a common seal, and may make such by-laws, rules and regulations, not inconsistent with the laws of this state or of the United States, as shall be necessary for well ordering and conducting the affairs of the company.

2. Be it further enacted, That the said president and directors, subject to the control and direction of the company, shall possess all the rights and powers, and be subject to all the restrictions given to and imposed upon the aforesaid trustees by the several acts concerning the said Dragon swamp. The president when present shall preside at all the meetings of the directors, and give the casting vote when they are equally divided. The president and three directors, or in the absence of the president, four directors (who shall appoint one of themselves president *pro tempore*,) shall constitute a board for the transaction of business. In case of the death, resignation, or other disability of the president or any of the directors, the vacancy may be filled by the board, or by the stockholders in general meeting.

3. Be it further enacted, That the capital stock of said com- Capital fixed. pany be and the same is hereby fixed at the sum of five thousand dollars. The said president and directors shall proceed to open Books for sub- books for receiving subscriptions for such amount as will, when added to the subscriptions aforesaid, make an aggregate of three thousand dollars; and such additional subscriptions shall be made in the manner and upon the terms and conditions prescribed for the subscriptions heretofore made. When the said three thousand dollars are subscribed according to the provisions of this act, then the board of public works shall be and are hereby authorized and directed to subscribe for the residue of said capital stock, agreeably to the terms of the act, entitled, "an act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth," passed February the eleventh, eighteen hundred and thirty-two.

4. All acts and parts of acts contrary to the provisions of this Repealing clause. act, shall be and are hereby repealed.

5. This act shall be in force from its passage.

Commencement.

CHAP. 199.—An ACT to authorize the erection of a lock and dam in Deep creek by the president and directors of the Dismal swamp canal company.

(Passed February 2, 1838.)

Whereas it has been represented to this present general assembly, Preamble. that serious obstructions exist in Deep creek in the county of Norfolk, and are likely to increase, to the great inconvenience and injury of the commerce and navigation passing through the Dismal swamp canal:

1. Be it therefore enacted, That the president and directors of Power to abut and the Dismal swamp canal company be and they are hereby autho- erect dam in Deep creek.

*Land necessary
therefor, how
acquired.*

rized to abut a dam at any place in Deep creek below the present locks, which shall retain the water between the said locks and the dam to be erected at the usual high water mark, to be ascertained by a competent engineer to be employed by the company; and for this purpose it shall and may be lawful for the said president and directors to make application to the court of Norfolk county, or to the circuit superior court of law and chancery for said county, for a writ of *ad quod damnum*, directed to the sheriff of said county, commanding him to summon twelve freeholders of his county, who, being first sworn, shall locate, circumscribe and value any quantity of land necessary for the construction of said lock and dam, not exceeding six acres, lying on said creek, at any point below the present outfall locks; and shall also examine the mills and lands above and below the point at which such lock and dam is proposed to be erected, and say what damage will arise to the several proprietors thereof; whether any, and if any, what lands will be overflowed, and whether the navigation of Deep creek above and below such lock and dam will be injured; and upon the finding of the jury, and the return of their inquest embracing the points of enquiry aforesaid, the court may either grant leave to erect such lock and dam, and direct the payment of the damages assessed, or may set aside the said inquest, and direct another view and inquest to be made as often as the court may think necessary. But the said president and directors are hereby empowered to proceed at any time to the erection of said lock and dam; and in the mean time no order shall be made and no injunction shall be awarded by any court or judge to stay the proceedings of the said president and directors, unless it be manifest to the court that the said president and directors, their officers, agents or servants, are transcending their authority, and the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages:

Provided, however, That the said president and directors shall have first applied for and obtained the writ of *ad quod damnum*, according to the provisions of this act: *Provided*, The said dam be erected within the period of seven years from the passage of this act; and also to erect a lock or locks of sufficient capacity to receive and pass any vessel that can now pass through the present locks at the north outfall of the said canal.

*Time for erection
of dam
Locks to be
erected.*

2. Be it further enacted, That upon the return of such writ of *ad quod damnum* to the court of Norfolk county, it shall and may be lawful for either party, that is to say the owner or owners of the said land or for the said company to appeal from any decree, order or judgment which the said county court may enter or make in the case to the superior court of law and chancery for said county, which is hereby authorized to make such order or decree in the case as to the said superior court shall appear right and proper.

*Appeals from
county court to
circuit court.*

3. Be it further enacted, That the lock or locks which the said company may cause to be constructed under this act, shall be free for all vessels, boats, lighters and rafts of timber to pass and repass free of any charge of toll or tonnage, at all times when it can be safe to open the said lock or locks; and if any person or persons shall be detained or hindered in passing the same, through any fault or neglect of the said company, their agents or servants, the said company shall be liable for all injury or damage sustained thereby, to be recovered by warrant, petition or action at law, according to the extent of damage sustained, as the case may be.

*Locks to be free
from toll.*

*Penalty for im-
pending navigation.*

4. *Be it further enacted*, That nothing in this act shall be construed as investing any exclusive right in the said company to the water, or the land which it may cover, except for the purposes contemplated by this act.

5. *Be it further enacted*, That the act passed on the fourth day of February, eighteen hundred and thirty-seven, entitled, "an act to authorize the president and directors of the Dismal swamp canal company to erect a lock and dam in Deep creek," shall be and the same is hereby repealed.

6. *Be it further enacted*, That if the aforesaid president and directors of the Dismal swamp canal company shall erect the locks and dam hereinbefore authorized, they shall not use the waters of the said canal, nor permit the same to be used by any other person, nor draw off the same, nor permit the same to be drawn off, for the use of mills, or any other purposes than that of affording navigation for the boats, vessels or rafts that may be employed in the transportation of commodities on said canal.

7. This act shall be in force from its passage.

Commencement.

CHAP. 200.—An ACT changing the time of meeting of the Dismal swamp land company and for other purposes.

(Passed March 21, 1838.)

1. *Be it enacted by the general assembly*, That the annual meetings of the "Dismal swamp land company," shall hereafter be held at Suffolk on the third Thursday in November in every year instead of the time now prescribed by law, or at such other time and place as the said company in general meeting shall at any time designate and prescribe.

2. *And be it further enacted*, That the said company shall have power to hold special or called meetings, to be held at such time and place as the said company in general meeting shall at any time prescribe.

3. This act shall commence and be in force from its passage.

Commencement.

CHAP. 201.—An ACT to enable the Roanoke navigation company to engage in transportation on the Roanoke river.

(Passed April 3, 1838.)

1. *Be it enacted by the general assembly*, That the Roanoke navigation company be, and they are hereby authorized to engage in the transportation of produce and other articles of trade on the Roanoke river, and to provide every thing necessary and proper to enable them to effect such transportation: *Provided*, That the power given is hereby reserved to the general assembly at any time to revoke the authority herein given.

2. This act shall be in force from its passage.

Commencement.

CHAP. 202.—An ACT to increase the capital stock of the Roanoke navigation company, and for other purposes.

(Passed April 4, 1838.)

1. *Be it enacted by the general assembly*, That the Roanoke navigation company be, and they are hereby authorized in general meeting to enlarge their capital, by the creation of new stock, from time to time, to an extent not exceeding six hundred and fifty thousand dollars. The books for receiving and entering subscriptions

Books for subscriptions where, when and by whom opened.

Rights and liabilities of new stock-holders.

Roanoke and its branches how to be improved.

Power reserved to require extension of improvement to Weldon.

Amount to be paid to holders of old stock, and for what period.

Assent of old stockholders to be given.

Land for canals and abutments how acquired.

for such new stock, shall be opened at such times and places as the said company may direct, and under the management of the president and directors thereof, and of such other persons as may be appointed for that purpose by the said president and directors, one month's notice thereof being first given in two or more newspapers most convenient therefor, printed in each of the states of Virginia and North Carolina. The subscribers for such new stock are hereby incorporated into the said company, with all the rights and privileges, and subject to all the liabilities of the original stock-holders.

2. *Be it further enacted*, That the said company be, and they are hereby authorized and required, (if they enlarge their stock as aforesaid,) to improve the Roanoke river between Gaston and the confluence of the Dan and Staunton, the Dan river to the town of Danville, and the Staunton river to the town of Brookneal, by means of locks and dams, and at the principal falls, short lateral canals, so as to afford a navigation at all seasons for steam boats drawing not more than two feet water: *Provided however*, That nothing herein contained shall be considered as requiring the said company to begin the said improvement at any particular part or section of the line, but the company may exercise their own discretion therein: *And provided further*, That the said company shall not be required to expend any portion of the funds arising from the aforesaid subscriptions for new stock within the state of North Carolina; and nothing herein contained shall be so construed as to release the said company from their obligation to improve the navigation of the Roanoke river and its navigable branches to the extent contemplated by their existing charter; and to keep open and in proper repair the canals and all other portions of said river and its branches, and embraced within the mode of improvement herein provided for.

3. *Be it further enacted*, That the power is hereby reserved to the general assembly to require the said company to extend their improvement to Weldon, at any future time, upon such terms and conditions as may be deemed reasonable.

4. *Be it further enacted*, That the said company shall be and are hereby required to pay to the holders of the old stock five per centum per annum, for ten years from the passage of this act, upon each share, out of their tolls and other profits, if their tolls and profits, (after reserving a sufficient sum for current expenses and repairs,) will yield a sufficient amount for such purpose; and if they do not, then the said company shall pay to the holders of the old stock such dividend below six per centum as their said tolls and profits shall yield. And whenever their tolls and other profits aforesaid shall be more than adequate to pay the said six per centum, the excess shall be appropriated exclusively to the holders of the new stock for the period of ten years from the passage of this act, and after the expiration of the said period of ten years from the passage of this act, the whole tolls and profits shall be divided amongst the holders of the old and the new stock in proportion to their respective shares. The assent of a majority of all the votes that can be given upon the old stock, to the provisions of this act shall be necessary before the same shall take effect.

5. *Be it further enacted*, That the said company shall have the right to purchase such lands as may be necessary for lateral canals

or locks or abutments of dams; but if no agreement can be made with the owner, or if the owner be an infant, *feme covert, non compos mentis*, or out of the state, then the company shall make application for a writ of *ad quod damnum* to the court of the county wherein the lands are, giving ten days previous notice to the proprietor thereof if to be found in the county, and if not, then to his or her agent, if any he or she hath, which court shall thereupon order the clerk to issue said writ, directed to the sheriff or other fit officer, commanding him to summon and impanel twelve fit persons, freeholders, to meet upon the lands required to be condemned, or which may be probably damaged or affected, on a certain day to be named by the court and inserted in said writ; of which notice shall be given by the sheriff or other officer to the proprietor or proprietors, or his, her or their agent or agents, if not present in court when the said order was made. The said freeholders shall be charged by the officer impartially and to the best of their skill and judgment to view the lands required to be condemned; to locate by metes and bounds what may be necessary; to appraise the same according to its true value; to examine the lands above and below which may be probably damaged or overflowed; to say what the damage will be to the proprietor or proprietors; to say whether in their opinion the health of any person or persons will be materially annoyed by the stagnation of the waters, and the probable damage thus arising. The inquest of the jurors, together with the writ, shall be returned by the officer to the succeeding court, and unless good cause be shewn against the inquest, it shall be confirmed by the court and entered of record. But if the said inquest should be disaffirmed, or if from any cause the freeholders should fail to make one within a reasonable time, the court may, at its discretion, as often as may be necessary, supersede them, and direct another view and inquest to be made by other freeholders in manner aforesaid. On the payment of the damages awarded, the ground viewed and assessed as aforesaid, shall be vested in said company for the purposes contemplated by this act.

6. Be it further enacted, That if any persons, owners, occupiers or proprietors of lands shall sustain any damages from injury to lands, or loss of health, by reason of the construction of any dam or canal by said company, which had not been foreseen, estimated and satisfied, such person or persons may make application to the court of the county wherein the lands lie, for a writ of *ad quod damnum*, giving ten days previous notice to the president or one of the directors of said company, upon which writ, the like proceedings shall be had as are herein before provided; and the court shall render judgment against the company for the damages assessed in such inquest, when confirmed by the court.

7. Be it further enacted, That if at any time hereafter the wants of the country shall require an extension of the said improvement up the Dan and Staunton rivers, or the branches of either, the right is hereby reserved to the legislature to require the said company to open books of subscription for the purpose of increasing their capital stock to extend said improvements, and if the state or private individuals shall subscribe for the aforesaid purpose the said company shall extend their improvement as required, and the new stock shall come in on equal terms with the additional stock created by this act.

8. This act shall be in force from its passage.

Confidentialment.

Right reserved to extend improvement up Dan and Staunton rivers.

Increase of capital thereafter.

CHAP. 203.—An ACT to authorize the Upper Appomattox company to engage in transportation on the Appomattox river.

(Passed February 7, 1838.)

Power to engage in transportation on Appomattox river.

Commencement.

1. *Be it enacted by the general assembly,* That it shall be lawful for the Upper Appomattox company, by their officers, agents and servants to engage in the transportation of produce or other articles of trade, on the Appomattox river, and to provide every thing necessary and suitable for effecting such transportation.

2. This act shall be in force from its passage.

CHAP. 204.—An ACT to amend the several acts concerning the Tuckahoe canal company.

(Passed April 9, 1838.)

Power to augment capital.

How to be raised.

Privileges of old and new stock-holders.

Power to improve canal and raise dam across Tuckahoe creek.

Other works to be constructed.

Rights of individuals protected.

Water from river not to be obstructed.

1. *Be it enacted by the general assembly,* That the president and directors of the Tuckahoe canal company be authorized, (a majority of the stockholders in general meeting thereunto consenting,) to increase the capital stock of said company to an amount not exceeding thirty thousand dollars; and that the said president and directors may effect such increase of stock, either by the sale of new stock created, at public auction, in the city of Richmond, or by opening books of subscription for the same, at such time and place as they may deem expedient, giving first to the individual stockholders, for the time being, the option of taking such new stock in proportion to the amount of stock respectively held by them, provided said stock shall not be sold at less than par. And the subscribers for the additional shares of stock are hereby declared to be thenceforward incorporated into said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

2. *Be it further enacted,* That the president and directors of said company shall have authority to improve their canal, and to effect such improvement, that they be authorized, (subject to the provisions of former acts of assembly relating to said canal company for obtaining land for canal and works,) to raise their dam across Tuckahoe creek above Tuckahoe bridge, an additional height not exceeding eighteen inches: *Provided*, That whenever it shall be necessary to prevent overflowing the adjacent lands, sufficient banks and culverts shall be erected and at all times kept in order; to straighten said canal above said bridge, and to increase its width and depth; to erect a lock below the aqueduct of the James river and Kanawha canal, so as the same shall not raise the water in the canal more than three feet above its natural level, nor so high as to injure by back water, J. Wickham's nor T. M. Randolph's mills, and to construct a dam across Tuckahoe creek near Tuckahoe aqueduct: *Provided however*, That such dam shall not injure in any manner the present mills owned by Messrs. John Wickham, and Thomas Mann Randolph, nor inundate any adjacent lands: *And provided also*, That it shall not obstruct the present flow of water from James river by the western mouth of Tuckahoe creek through the present James river canal: *Provided*, That nothing herein contained shall be construed in violation of the contract with John Wickham, referred to in the act passed on the ninth February, eighteen hundred and thirty, entitled, "an act to amend the several acts of assembly concerning the Tuckahoe canal company."

3. Be it further enacted, That the said president and directors may have the privilege of constructing lateral rail-roads from any point of their canal, to any pits lying in Tuckahoe valley, and in constructing the same, that they be governed by the provisions of "an act, entitled, 'an act prescribing certain general regulations for the incorporation of rail-road companies,'" passed eleventh, March, eighteen hundred and thirty-seven, and invested with all the privileges conferred on such companies by said act.

Right to construct lateral rail-roads.

Regulations for rail-roads.
Acts 1836-7, pp. 101-112.

4. This act shall be in force from its passage.

Commencement.

CHAP. 205.—An ACT to amend the act, entitled, "an act to authorize a further subscription on behalf of the state to the stock of the Rivanna navigation company."

(Passed April 4, 1838.)

Whereas, by an act passed March the twenty-seventh, eighteen hundred and thirty-seven, the board of public works were authorized to subscribe for two fifths of the capital stock of the Rivanna navigation company on certain conditions; and whereas it appears that the said company have not been able to obtain solvent subscriptions to the full amount of three fifths of their capital, but have increased the said subscriptions to the sum of fifty-seven thousand dollars:

1. Be it therefore enacted by the general assembly, That the board of public works be, and they are hereby directed to subscribe agreeably to the terms of the aforesaid act of the twenty-seventh of March, eighteen hundred and thirty-seven, for so much additional stock of the said company as will increase the subscription on behalf of the state to the sum of thirty-eight thousand dollars. And whenever the individual solvent subscriptions shall amount to sixty thousand dollars, then the said board shall increase their subscription on behalf of the state to forty thousand dollars, agreeably to the conditions of the aforesaid act:

2. Be it further enacted, That the capital stock of said company be, and is hereby increased to one hundred and twenty thousand dollars; and the president and directors thereof are hereby authorized to receive further subscriptions in shares of fifty dollars each, until the additional capital shall have been subscribed.

3. Be it further enacted, That the said company, whenever they may deem it expedient, may extend their navigation above More's ford along the main river, and either or both of its branches, as far as to them may seem eligible.

4. Be it further enacted, That before the payment of the said subscription on behalf of the state, the said company shall bind themselves by a resolution, a copy of which shall be transmitted to the board of public works, that when plans and specifications are made by the principal engineer and approved by the said board, they will prosecute their repairs and improvements agreeably to the same.

Improvement to be made by plans of principal engineer.

5. This act shall be in force from its passage.

Commencement.

CHAP. 206.—An ACT concerning the state's subscription to the Rappahannock company.

(Passed March 1, 1838.)

1. Be it enacted by the general assembly, That the board of public works be, and they are hereby authorized to borrow on the

Money to be borrowed to pay

state's subsci-
ptions.

Commencement.

credit of the commonwealth, such sum or sums of money as may be required to enable them to pay the state's subscription to the stock of the Rappahannock company, at any rate of interest not exceeding six per centum per annum.

2. This act shall be in force from its passage.

CHAP. 207.—An ACT incorporating the North river navigation company.

(Passed April 4, 1838.)

Books for sub-
scription, where
and by whom
opened.

Capital.
How applied.

What provisions
of general law
applicable to com-
pany.
2 R. C. 1819, p.
212, § 1, 2, 3, 4;
p. 216, § 19, 20;
p. 222, § 22.

Company incorpo-
rated.

Name.

General powers.

Land and mate-
rials for canal,
dams, &c. how
acquired.

Works how to be
constructed.

1. *Be it enacted by the general assembly,* That it shall be lawful to open books in the town of Lexington, under the direction of Samuel M'Dowell Reid, Hugh Barclay, John Ruff, John F. Caruthers and Samuel M'Dowell Moore, or any three of them; at the store of Thomas Paxton and company, under the direction of Thomas Paxton, Reuben Grigsby, Benjamin F. Porter, William Weaver and David Edmonson, or any three of them; at Brownsburg, under the direction of James M. Beard, George M'Chesney, William M. Gold, Preston Trotter and Henry B. Jones, or any three of them; and at Cedar Grove mills, under the direction of Blair Anderson, Don Quivedo Stokeley, John M'Cown, Henry A. M'Cormick and John Crouse, or any three of them, for receiving and entering subscriptions to the amount of one hundred thousand dollars, in shares of fifty dollars each, for the purpose of improving the navigation of the North river in the county of Rockbridge, from its confluence with James river to Jordan's mills, either by canal or locks and dams, or both, as the company hereby incorporated may determine. The said books shall be opened and the subscriptions be made in the manner prescribed in such cases by the act, entitled, "an act prescribing certain regulations for the incorporation of turnpike companies;" and also the provisions of the said act relating to the keeping open the books of subscription, the payment of subscriptions, the general or annual meetings of the company, the ratio of votes, the incorporation of the company, the transfer of stock, the election and removal of president and directors, and their powers and duties, shall be held and deemed to apply as effectually to this act, and to the company hereby incorporated, as if they were specially recited herein.

2. *Be it further enacted,* That the stockholders, from and after the first general meeting, shall be and are hereby incorporated into a company, by the name and style of "The North river navigation company," with all the rights, privileges and immunities of a corporation or body politic in law, and may make such by-laws, rules and regulations, not inconsistent with the laws of this state, or of the United States, as may be deemed necessary for well ordering and conducting the affairs of the company.

3. *Be it further enacted,* That the president and directors of the said company, besides the general powers contained in the fifth section of the above recited act, shall and may exercise the like powers and observe the like restrictions in the acquisition of such land, not exceeding eighty feet in width for a canal, or one acre at any one place for the abutment of a dam or erection of a toll-house or other fixture, and of such materials as may be necessary for the purposes of the company, as are prescribed to the president and directors of turnpike companies by the act aforesaid. The works of the company shall be so constructed as to afford at all seasons at least two feet depth of water; and no dam erected by them shall

be of greater height than is necessary to afford said depth of water. They may also use either wood or stone in the construction of locks; and so soon as a section of six miles shall be completed, and as Tolls allowed. often as sections of that length are finished, they may demand and receive such tolls as may from time to time be fixed by the board of public works or by the general assembly. The provisions of the before recited act concerning the exactation of unlawful tolls, or the evading the payment of tolls, are hereby declared to be equally applicable to this act, and to the works hereby authorized.

4. Be it further enacted, That if the said president and directors shall not commence the improvements contemplated by this act, within two years from the passage hereof, and complete the same within ten years after the first general meeting of the stockholders, then the interest of the company in the said improvements, and the tolls arising therefrom, shall be forfeited and cease.

5. Be it further enacted, That it shall and may be lawful for the said company to extend their improvements to the Cedar Grove mills on said North river; and, for such purpose, to enlarge their capital stock from time to time, to such amount not exceeding two hundred thousand dollars, as they may judge necessary.

6. This act shall be in force from its passage.

Commencement.

CHAP. 208.—An ACT to authorize a subscription on the part of the state to the stock of the Goose creek and Little river navigation company.

(Passed April 5, 1838.)

1. Be it enacted by the general assembly, That the board of public works be and they are hereby authorized to subscribe on behalf of the state for two fifths of the capital stock of the Goose creek and Little river navigation company. The said subscriptions shall be made upon the terms of the "act prescribing certain general conditions on which future subscriptions to the capital of joint stock companies shall be made on behalf of the commonwealth," passed February the eleventh, eighteen hundred and thirty-two.

Subscription by
board of public
works.

Conditions.
Acts 1831-2, p. 71.

2. Be it further enacted, That the said board of public works be and they are hereby empowered to borrow such sum or sums as may be necessary to enable them to pay the said subscription, or any portion thereof, upon such terms as may be provided for loans for purposes of internal improvement in any general act passed at the present session of the general assembly; but if no such act be passed, then the said loan or loans shall be effected agreeably to the conditions of the act to authorize a subscription on behalf of the state to the stock of the Louisa rail-road company, passed February the twenty-fifth, eighteen hundred and thirty-seven.

Power to borrow
money.
See ante, ch. 12,
pp. 21-27.

3. This act shall be in force from its passage.

Commencement.

CHAP. 209.—An ACT declaring Greenbrier river a public highway.

(Passed February 13, 1838.)

1. Be it enacted by the general assembly, That Greenbrier river shall hereafter be deemed and taken, and the same is hereby declared a public highway for all the purposes of navigation, free for such boats and rafts as usually navigate said river, from the mouth of Sillington's creek in the county of Pocahontas, to its confluence with New river; but inasmuch as the public convenience may hereafter require the erection of mills on said river, within the points aforesaid, it shall be lawful for the circuit superior court of law and

Greenbrier river
declared public
highway.

Mill dams, how
authorized.

S. R. C. 1819, ch.
235, p. 225.

Dams, how to be
constructed.

Slopes.

When and how
dams and slopes
may be abated.

Penalty for caus-
ing obstruction or
delay in naviga-
tion.

Now recoverable.

Slopes to be
erected in dams.

Courts to pay for
erection of slopes.

Commencement.

chancery for the county in which any dam or dams may be proposed to be erected, or for the county court of such county, in the manner and upon the proceedings prescribed by the act, entitled, "an act to reduce into one the several acts concerning mills, mill dams, and other obstructions to water courses," passed March the second, eighteen hundred and nineteen, to authorize any person or persons to erect a dam or dams on said river, within the points aforesaid: *Provided*, That the court shall, at the time of granting permission to erect any dam, require the applicant to construct his dam not exceeding four feet in height, at the slope hereinafter required, measuring from ordinary low water mark, and to construct and keep in constant repair, in some suitable part of such dam, a good and sufficient slope not less than forty feet wide and fifty feet long, and at the lower end thereof one foot above ordinary low water mark; and any permission on the part of said court to build a dam without requiring the construction and constant repair of such slope as aforesaid, shall be absolutely null and void; and any dam erected as aforesaid without the said slope, may at any time be abated as a nuisance.

2. *Be it further enacted*, That if any dam erected according to the provisions of this act, or the slope therein, shall at any time, in the opinion of either of the aforesaid courts, be so much out of repair as to impede or obstruct thereby the navigation, or if any impediment or obstruction shall occur at such slope through any default or neglect of the owner of the dam, the court shall be and is hereby authorized to abate the dam as a nuisance at any time after three months notice by any person aggrieved thereby delivered to the owner, and specifying particularly the grounds or reasons on which it may be intended to ask for such abatement. It shall be lawful for the court; if either party shall desire it, to impanel a jury to decide any disputed fact alleged in the notice, and to give such judgment as would be given in other cases for the abatement of nuisances; the costs of which abatement shall be paid by the said owner or occupier, shall be estimated by the court, and be recovered by motion before the same, on ten days previous notice: and the owner or occupier of said dam shall moreover be liable to a penalty of five dollars for every time any obstruction or delay shall happen to any boat or raft at the slope in such dam, through the default or neglect of said owner or occupier, and also be liable to the party aggrieved for damages; and the said penalty may be recovered on ten days notice, before a justice of the peace of the county in which such owner or occupier may reside.

3. *Be it further enacted*, That all owners or occupiers of mill dams across the main branch of said river, whose height at the slope shall exceed four feet above ordinary low water mark, shall, within six months after the passage of this act, make or cause to be made a slope or sluice in the dam as before directed, upon pain of having the dam abated as a nuisance in manner aforesaid; and the county court of the county in which the dam may be situated shall, when said slope or sluice is completed, if the owner or occupier of said dam shall require it, appoint nine disinterested freeholders of said county, whose duty it shall be to examine said slope or sluice, and report the cost of making the same to their next court; and the court shall cause the amount to be paid to the owners or occupiers of the dam out of the succeeding county levy.

4. This act shall be in force from its passage.

CHAP. 210.—An ACT declaring Bingamon creek a public highway.

[Passed January 13, 1838.]

1. Be it enacted by the general assembly, That Bingamon creek in the county of Harrison, from its mouth to the mouth of the Quaker fork thereof, shall hereafter be deemed and taken, and is hereby declared a public highway for all the purposes of navigation, free for such boats and rafts as usually navigate said stream; and all persons who may hereafter obtain permission to erect a dam or dams therein, shall construct and place in said dam such locks or slopes as shall not prevent or impede the free navigation of said creek as aforesaid, under pain of having the same abated in the manner hereinafter provided.

2. Be it further enacted, That if at any time the dam or dams which may hereafter be erected on said creek within the points aforesaid, shall in any manner obstruct or impede the navigation of said creek, upon complaint or presentment thereof being made either to the circuit superior court of law and chancery for Harrison county, or to the county court of said county, it shall be the duty of such court to enter a rule against the owner or occupier of any such dam or dams, directing him or them to appear at the next term of said court to shew cause, if any he or they can, why an information shall not be filed against him or them for so obstructing the navigation of said creek by reason of erecting and continuing therein such dam or dams; a copy of which rule shall be served at least twenty days before the return day thereof; and the said rule being so served, if the said party or parties shall fail to appear, or having appeared, shall fail to shew cause to the contrary, the said court shall direct the said information to be filed against him or them, to be proceeded in as in other cases. And if upon the trial of said information, the verdict of the jury shall be against the defendant or defendants thereto, the said court shall render judgment thereupon, directing such dam to be abated as a nuisance.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 211.—An ACT declaring Simpson's creek a public highway.

[Passed March 19, 1838.]

1. Be it enacted by the general assembly, That Simpson's creek in the county of Harrison shall hereafter be deemed and taken, and is hereby declared a public highway for all the purposes of navigation, free for such boats and rafts as can navigate said creek, from its mouth to the dam of James Fleming. The proprietor or proprietors of any mill dam heretofore erected on said creek within the points aforesaid, shall, within two years after the passage of this act, cause to be reduced to a height not exceeding five feet a space not less than forty feet wide in a suitable part of said dam, wherein shall be constructed a slope of the said width of forty feet, and not less than sixty feet long; and the dam on either side of said slope shall be raised at least one foot above the height of the dam at the slope. If the proprietor or proprietors of any such dam shall fail to reduce the same as aforesaid, and construct a slope as aforesaid, and keep the same in constant repair, upon complaint or presentment thereof being made either to the circuit superior court of law and chancery for the county of Harrison, or to the county court of said county, it shall be the duty of such court to enter a rule against the owner or owners, occupier or occupiers of any

Simpson's creek
declared a public
highway.Owners of dams
to construct
slopes.Dams, how and
when abated as
nuisances.

such dam, directing him or them to appear at the next term of said court to shew cause (if any he or they can) why an information shall not be filed against him or them for failing to construct or keep in repair the slope as aforesaid; a copy of which rule shall be served at least twenty days before the return day thereof: and the said rule being so served, if the said party or parties shall fail to appear, or having so appeared, shall fail to shew cause to the contrary, the court shall direct the information to be filed against him or them, to be proceeded in as in other cases; and if upon the trial of the information the verdict of the jury shall be against the defendant, the court shall render judgment thereupon, directing the dam to be abated as a nuisance. And all damages the owner or owners of such dam may sustain by the abatement thereof, and all sum or sums of money which the owner of such dam may necessarily expend in making the slopes required by this act, shall be ascertained by the county court of Harrison county when it lays its county levies, and shall be allowed by said court to such owner out of the levy aforesaid; and if said court shall fail or neglect to ascertain the damages and sums of money aforesaid, and levy the same upon the said county, it shall be lawful for the circuit superior court of said county to compel the county court aforesaid by *mandamus*, to ascertain such damage or sum of money, if any there be, and levy the same; and any person aggrieved by the order of the county court making such levy, may obtain from the circuit court aforesaid an appeal from such order in the same manner that other appeals are allowed in other cases of levies by county courts. And all dams hereafter erected across said creek within the points aforesaid, shall be built agreeably to the provisions of this act, on pain of having the same abated as aforesaid.

Draw gates to be erected.

2. *Be it further enacted*, That it shall and may be lawful for the owner or owners of any dam already or hereafter to be erected across said creek within the said points by order of the courts aforesaid, to construct and use a draw gate or other like fixture within the slope constructed as aforesaid, during stages of low water, which shall be drawn aside or removed by the owner or occupier of the dam, on application, when it may be necessary for any boat or raft to pass the said slope; and on failure therein, such owner or occupier shall be subject to a fine of not more than twenty dollars, nor less than one dollar, to be recovered by the person aggrieved, by warrant before any justice of the peace of the county wherein such owner or occupier may reside.

Commencement.

3. This act shall be in force from its passage.

CHAP. 212.—An ACT to explain the act, entitled, “an act concerning the navigation of Elk river,” passed February eleventh, eighteen hundred and thirty-seven.*

[Passed February 14, 1838.]

Elk river to the Fork lick in Nicholas declared a public highway.

1. *Be it enacted by the general assembly of Virginia*, That the act, entitled, “an act concerning Elk and Guyandotte rivers,” passed February eleventh, eighteen hundred and twenty-two, which declares that Elk river in the county of Kanawha, as far as the Fork lick, shall be a public highway, shall be so construed as to refer to Fork lick in the county of Nicholas, above the town of Suttonsville, now in the county of Braxton.

Commencement.

2. This act shall be in force from and after the passage thereof.

*This should be eighteen hundred and twenty-two; the act explained is correctly quoted in the body of the law.

CHAP. 213.—An ACT declaring Brown's creek a public highway.

(Passed February 13, 1838.)

1. *Be it enacted by the general assembly,* That Brown's creek ^{Brown's creek declared a public highway.} in the county of Kanawha shall hereafter be deemed and taken, and the same is hereby declared a public highway, for all the purposes of navigation, free for such boats and rafts as usually navigate said stream, from its mouth to the forks thereof, and up the right hand fork to the mouth of the Rock Camp branch, and up the left hand fork to the point at which the line of Augustus W. Wood's land crosses the same; and all persons who may hereafter obtain permission to erect a dam or dams therein shall construct and place in said dam, such locks or slopes as shall not prevent or impede the navigation of said creek as aforesaid, under pain of having the same abated in the manner hereinafter provided.

2. *Be it further enacted,* That if at any time the dam or dams ^{Dams how and when abated as nuisances.} which may hereafter be erected on said creek within the points aforesaid, shall in any manner obstruct or impede the navigation, upon complaint or presentment thereof being made either to the circuit superior court of law and chancery for the county of Kanawha, or to the county court of said county, it shall be the duty of such court to enter a rule against the owner or occupier of any such dam or dams, as the case may be, directing him or them to appear at the next term of the said court to shew cause, if any he or they can, why an information shall not be filed against him or them, for so obstructing the navigation of said creek by reason of erecting and continuing therein such dam or dams, a copy of which said rule shall be served at least twenty days before the return day thereof; and the said rule being so served, if the said party or parties shall fail to appear, or having so appeared, shall fail to shew cause to the contrary, the said court shall direct the said information to be filed against him or them, to be proceeded in as in other cases; and if upon the trial of the said information, the verdict of the jury shall be against the defendant or defendants thereto, the said court shall render judgment thereupon, directing such dam or dams to be abated as a nuisance.

3. This act shall be in force from its passage.

Commencement.

CHAP. 214.—An ACT declaring Dunkard's creek a public highway.

(Passed March 5, 1838.)

1. *Be it enacted by the general assembly,* That Dunkard's creek ^{Dunkard's creek declared a public highway.} lying partly within the state of Pennsylvania, and partly within this commonwealth, shall hereafter be deemed and taken, and the same is hereby declared a public highway, for all the purposes of navigation, free for such boats and rafts as can navigate said stream, from its mouth to the junction of the main forks thereof in the county of Monongalia. The proprietor or proprietors of any mill dam heretofore erected on said creek, within the points aforesaid, shall, within two years after the commencement of this act, cause to be reduced to a height not exceeding four feet, a space not less than forty feet wide in a suitable part of said dam, wherein shall be constructed a slope of the said width of forty feet, and not less than fifty feet long, and the dam on either side of said slope shall be raised one foot at least above the height of the dam at the slope.

Owners of dams to construct slopes.

Dams how and
when to be
abated.

2. If the proprietor or proprietors of any such dam shall fail to reduce the same as aforesaid, and to construct such slope as aforesaid, and keep the same in constant repair, upon complaint or presentment thereof being made, either to the circuit superior court of law and chancery for the county wherein the dam is situated, or to the county court of said county, it shall be the duty of such court to enter a rule against the owner or occupier of any such dam, directing him to appear at the next term, to shew cause, if any he can, why an information shall not be filed against him for failing to construct or keep in repair the slope as aforesaid, a copy of which rule shall be served at least twenty days before the return day thereof; and the said rule being so served, if the said party or parties shall fail to appear, or having so appeared, shall fail to shew cause to the contrary, the court shall direct the information to be filed against him or her, to be proceeded in as in other cases. And if upon the trial of the said information, the verdict of the jury shall be against the defendant or defendants, the court shall render judgment thereupon, directing the dam to be abated as a nuisance; and the expense of such abatement shall be estimated by the court, and may be recovered by motion before the same, on ten days notice, from the owner or occupier of the dam. And all dams hereafter erected across said creek within the points aforesaid, shall be built conformably with the provisions of this act, on pain of having the same abated as aforesaid.

Draw gates in
dams to be con-
structed.

3. *Be it further enacted*, That in order that the owners or occupiers of such dams on said creek as have been or may be authorized by either of said courts, may have the benefit of the same head of water as was contemplated by the court, it shall and may be lawful for him or them to construct and use a draw gate or other fixture for the purpose, at the slope during stages of low water, which gate or other fixture shall be drawn aside or removed by the owner or occupier of the dam, on the application of any one navigating said creek and wishing to pass said slope; and on failure thereof, such owner or occupier shall be subject to a fine of not more than twenty dollars, nor less than one dollar, to be recovered by the person aggrieved by warrant before any justice of the peace of the county wherein such owner or occupier may reside.

Penalty for failure.

4. This act shall commence and be in force from and after its enactment by the legislature of the state of Pennsylvania.

Commencement.

CHAP. 215.—An ACT to legalize the erection of the dam of Samuel Clemens across the West Fork river.

(Passed March 5, 1838.)

Preamble.

Whereas it is represented to the general assembly that Samuel Clemens, of the county of Harrison, hath for many years been the proprietor of a dam, erected for the purposes of water machinery, across the West Fork river, without lawful authority, which, as now constructed, obstructs the navigation; and whereas said dam may be so modified in its structure as to make it unobjectionable, as regards navigation, and at the same time secure an important water power, which would be a great public benefit:

Samuel Clemens's
dam across West
Fork river legal-
ized.

1. *Be it therefore enacted*, That the erection and continuance of said dam, at a height not exceeding five feet at the slope, and seven feet at the residue thereof, be and is hereby sanctioned and declared lawful; and no forfeiture nor penalty shall be incurred by the said

Samuel Clemens, his heirs or assigns, on account of said dam : *Provided*, That the passage of boats and rafts through said dam ^{slope to be con-}
be secured by a slope of sufficient depth of water for that purpose, ^{structed.}
not less than forty-seven feet wide, and sixty feet long : *And provi-* Right reserved to
ded also, That nothing herein contained shall be so construed as to improve navigation
affect the right of the state, or of any company now or hereafter to
be incorporated for such purpose, to improve the navigation of said
river, in any manner deemed advisable.

2. *Be it further enacted*, That the circuit superior court of law Dam and slope
and chancery of Harrison county, is hereby constituted the judge how to be abated.
of the sufficiency of said slope, with full power at any time to abate
the said dam as a nuisance, if, after one month's notice to the pro-
prietor thereof, entered of record, the said slope should, in their
opinion, be insufficient for the passage of boats and rafts ; and such Expense of abate-
abatement shall be at the expense of the owner or owners of said ment how defray-
dam, and may be recovered by motion before said court, upon ten
days previous notice of the time of making such motion.

3. This act shall be in force from its passage. Commencement.

CHAP. 216.—An ACT concerning Griffin Stollings and James H. Fry.

(Passed March 30, 1838.)

1. *Be it enacted by the general assembly*, That Griffin Stollings Time allowed
and James H. Fry, the proprietors of a dam across Little Coal to complete slope
river in the county of Logan, be and they are hereby allowed a fur-
ther time, until the first day of November next, for completing such
a slope in their said dam as is required by law : *Provided*, That no Prov. Stollings and Fry
fine or penalty heretofore incurred by the said proprietors shall be
hereby remitted.

2. This act shall be in force from its passage. Commencement.

CHAP. 217.—An ACT to authorize a ferry from Pungoteague creek in the
county of Accomack, to Norfolk and other places.

(Passed February 9, 1838.)

Whereas it is represented to the general assembly by the petition ^{Breamble.} of Thomas Underhill, of the county of Accomack, that by an act passed several years since, a ferry or line of packets was established from the town of Onancock in the county of Accomack, to Norfolk and other places adjacent thereto, of which ferry a certain Henry P. Parker became the owner ; that since the passage of the said act, with its several amendments, the petitioner, Thomas Underhill, has purchased of said Parker his right in and to the said ferry or line of packets, and that in consequence of the great difficulty which frequently arises in making an entrance at the mouth of the creek leading to Onancock town, the petitioner has been induced to remove the landing to his lands on Pungoteague creek, affording a shorter passage, and at all times a more easy and safe entrance, than at Onancock ; and to avoid the apparent confusion of several amended acts concerning said ferry, is desirous that a new act may pass authorizing him to run the said line of packets from his lands on Pungoteague creek to Norfolk, &c. : Therefore,

1. *Be it enacted*, That Thomas Underhill of the county of Accomack, his heirs and assigns, shall be and they are hereby authorized and empowered to establish, and constantly keep, a public ferry, from his land on Pungoteague creek in the county of Accomack, across the Chesapeake bay, to the towns of Norfolk, Hamp-

Underhill's ferry
across Chesapeake
bay established.

Rates of ferriage. ton and York, and the price and rates of ferriage at the said ferry shall be as follow, to wit: for a man or horse three dollars; for every coach, chariot or wagon, ten dollars, and for the driver thereof two dollars; and for every two wheel chaise or chair five dollars.

Regulations.

2. *Be it further enacted,* That the proprietor or keeper of the said ferry shall be subject to all the regulations and penalties, and shall have the benefit of all the privileges and remedies contained in the act, entitled, "an act to reduce into one the several acts for the settlement and regulation of ferries," passed January the thirtieth, eighteen hundred and nineteen, and all subsequent acts and parts of acts of a public and general nature in relation to ferries: *Provided always,* That there shall be kept in the service of said ferry one or more good and sufficient boats of not less than twenty-five tons burthen, as necessity or the occasion may require; and the captain navigating the same shall be a white man.

Time allowed to put ferry in operation.

3. *Be it further enacted,* That the said Thomas Underhill, his heirs and assigns, shall be allowed six months from and after the commencement of this act to get said ferry, as hereby established, in operation, and to give bond and security, as required by the nineteenth section of the act hereinbefore cited, otherwise this act shall cease to have any force or effect, and be void as to the said Thomas Underhill, his heirs and assigns.

Penalty for exacting illegal tolls.

4. *Be it further enacted,* That if the proprietor or keeper of said ferry shall demand and receive greater rates of ferriage than are prescribed herein, he shall forfeit and pay to the person overcharged the ferriage demanded and received, and twenty dollars for every such offence, recoverable before any justice of the peace in the county aforesaid. And if said proprietor shall neglect to keep his said boat or boats, as the case may be, in good and sufficient order for the transportation of persons and things to and from the places aforesaid, then the privilege to keep said ferry shall cease and be void.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.

CHAP. 218.—An ACT to authorize a ferry from the borough of Norfolk to the corporation wharf in the town of Portsmouth.

(Passed March 22, 1838.)

Preamble.

Whereas it is represented to the general assembly, by the petition of sundry citizens and residents of the borough of Norfolk, that the establishment of a ferry for the transportation of produce, merchandize, persons, &c. from the said borough to the end of the Portsmouth and Roanoke rail-road, and back again, is very desirable: Therefore,

Ferry from Norfolk to Portsmouth established.

1. *Be it enacted by the general assembly,* That it shall be lawful for the court of the borough of Norfolk to establish and keep a public ferry from some central point in the said borough across Elizabeth river, to the wharf known as the corporation wharf in the town of Portsmouth, now the property of the said borough.

Regulations.

2. *Be it further enacted,* That the proprietors and keepers of said ferry, shall at all times be subject to all the regulations, provisions and penalties, and shall be entitled to all the privileges, rights and remedies contained in the act, entitled, "an act to reduce into one the several acts for the settlement and regulation of ferries," passed January the thirtieth, eighteen hundred and nineteen, and

all subsequent acts and parts of acts of a public and general nature in relation to ferries.

3. *Be it further enacted*, That the rates for transportation across said river, at said ferry, shall be, for every person five cents; for every horse, mule, jack and work ox, five cents; for every head of neat cattle five cents; for all riding carriages, wagons and carts, five cents per wheel; and for every sheep, hog, goat or lamb, three cents and no more; for every hogshead or pipe twenty-five cents; for every bale of cotton, ten cents; for every barrel, five cents; for every bag of coffee, four cents; for every sack of salt, four cents; and for all other goods, wares and merchandize, not herein enumerated, in the same proportion: *Provided however*, That until the expiration of the existing lease upon the ferry now established across said Elizabeth river from the said borough to the town of Portsmouth, it shall not be competent to said court, their agent, lessee or any other person under their authority, to charge or receive toll for the conveyance of any person or persons, horses, carriages and cattle, or any other animal, for the transportation of which the lessees of the present ferry across Elizabeth river and its branches may lawfully charge toll or ferriage.

4. *Be it further enacted*, That it shall be lawful for the said court of the borough of Norfolk to contract and agree with some fit person or persons to keep said ferry, or to rent out or lease the same from time to time, (with its privileges as hereby authorized,) for one or more years, not exceeding seven, upon ten days notice published in one or more newspapers printed in the said borough, and to secure the payment of the rents from such lessee by bond and security made payable to the said court; and also to require of such ferry keeper or lessee, as the case may be, bond and security, conditioned as required by the nineteenth section of the act, the title of which is herein before cited. And if the obligor or obligors of any such bond, given for a lease, or their legal representatives, shall at any time make default in the payment of any sum or sums of money due thereon, it shall be lawful for the circuit superior court of law and chancery for the borough of Norfolk, on motion to it made, (ten days previous notice being proved to have been served on the defendant or defendants,) to give judgment against him or them for the sum or sums of money appearing to be so due, with interest and costs.

5. *Be it further enacted*, That the said court of the borough of Norfolk shall be, and they are hereby authorized to appoint (and remove at pleasure) a treasurer, whose duty it shall be to receive, disburse and account for all moneys belonging to the said court, arising from the ferry hereby authorized; and require of such treasurer bond and security, in such sum as may seem reasonable, made payable as aforesaid, conditioned for duly receiving, disbursing, accounting for, and paying over any moneys remaining in his hands; and upon default, the like proceedings shall be had in the circuit superior court of law and chancery for the borough of Norfolk, as in the case of default of a lessee of said ferry, as herein before provided; and such treasurer shall be allowed a reasonable compensation for his services, payable out of any money arising from said ferry.

6. *Be it further enacted*, That whenever the income of said ferry, at the rates of toll hereby authorized, shall exceed ten per

Ferriage not allowed during lease of existing ferry.

Bond and security required of keeper or lessee.

Proceedings for default.

Treasurer appointed; his duty.

Bond required of him.

Proceedings against him for default.

Rates of ferriage how and when reduced.

Accounts of expenditures required.

centum upon the expense of establishing and keeping the same, it shall be the duty of said court, to reduce the tolls and rates of toll as hereby established, so as to bring within *that per centum* the profits of the said ferry; and it shall not be lawful ever to raise the tariff of tolls of said ferry to an amount exceeding that standard; and for that purpose, it shall be lawful for the said court of the borough of Norfolk and their successors in office, in making a lease of said ferry, to require of such lessee to keep and render, from time to time, an exact account of the expenses incident to the keeping of said ferry, such as the purchase and repair of boats, hire of hands, and all other charges attending the same, as well as an exact account of the receipts for transportation and other income from the same; and a failure herein shall be deemed, held and taken as a forfeiture of said lease.

Who to be transported.

7. *Provided however,* That the ferry herein authorized to be established shall not transport any other person or persons than such as are inhabitants of the said borough of Norfolk, and such others as may be going to or from the said borough as passengers on the Portsmouth and Roanoke rail-road, or as owners of merchandise or produce of any kind, or agents for or about the same.

Commencement.

8. This act shall be in force from the passing thereof.

CHAP. 219.—An ACT to authorize a ferry across Twelve Pole river in the county of Cabell.

[Passed February 13, 1838.]

Ferguson's ferry across Twelve Pole river estab-
lished.

1. *Be it enacted by the general assembly,* That it shall be lawful for Thomas Ferguson, his heirs and assigns, to establish and constantly keep a ferry from the landing on his land in the county of Cabell, across Twelve Pole river, to some convenient point on his land on the opposite shore.

Regulations.

2. *Be it further enacted,* That the proprietors and keepers of said ferry shall at all times be subject to all the regulations, provisions and penalties, and shall be entitled to all the privileges, rights and remedies contained in the act, entitled, "an act to reduce into one the several acts for the settlement and regulation of ferries," passed January the thirtieth, eighteen hundred and nineteen, and all subsequent acts and parts of acts of a public and general nature in relation to ferries.

Rates of ferrings.

3. *Be it further enacted,* That the rates of transportation across said river at the ferry hereby authorized shall be, for every man, six and one fourth cents; for every horse, mule, jack, or work ox, six and one fourth cents; for every head of neat cattle, two cents; for all riding carriages, wagons and carts, the same per wheel as for a horse; and for every sheep, hog, goat or lamb, one cent, and no more: *Provided, nevertheless,* That the general assembly shall have power to regulate the said tolls and rates of toll from time to time as may be deemed expedient.

Right reserved to regulate rates.

Time allowed to put ferry in operation.

Bond and security required.

4. *Be it further enacted,* That the said Thomas Ferguson, his heirs and assigns, shall be allowed six months from and after the commencement of this act to get said ferry in operation; and shall give bond and security, conditioned as required by the nineteenth section of the act hereinbefore recited, otherwise this act shall cease to have any force or effect, and be void as to the said Thomas Ferguson, his heirs and assigns.

Commencement.

5. This act shall be in force from and after the passing thereof.

CHAP. 230.—An ACT to authorize John Bogard to establish a ferry across the Ohio river.

(Passed February 12, 1838.)

1. *Be it enacted by the general assembly,* That it shall be lawful for John Bogard, his heirs and assigns, to establish and keep a ferry from the lands of said Bogard in Jackson county, and at the lower end of Buffington's bottom, across the Ohio river to some convenient point on the opposite shore.

2. *Be it further enacted,* That the proprietors and keepers of said ferry shall at all times be subject to all the regulations, provisions and penalties, and shall be entitled to all the privileges, rights and remedies contained in the act, entitled, "an act to reduce into one the several acts for the settlement and regulation of ferries," and in all subsequent acts and parts of acts of a public and general nature in relation to ferries.

3. *Be it further enacted,* That the rates for transportation across said river at said ferry shall be, for a man, twelve and a half cents; for every horse, mule, jack, or work ox, twelve and a half cents; for every head of neat cattle, six and one fourth cents; for all riding carriages, wagons and carts, the same per wheel as for a horse; and for every sheep, goat or hog, two cents, and no more: *Provided, nevertheless,* That the general assembly shall have power to regulate the said tolls from time to time as may be deemed proper.

4. *Be it further enacted,* That the said John Bogard, his heirs and assigns, shall, within six months after the passage of this act, get the said ferry into operation, and give bond and security as required by the before recited act, otherwise this act shall cease and be void.

5. This act shall be in force from its passage.

Commencement.

CHAP. 231.—An ACT to authorize a ferry from the lands of Henry Durst in the county of Jackson, across the Ohio river.

(Passed March 23, 1838.)

1. *Be it enacted by the general assembly,* That it shall be lawful for Henry Durst, his heirs and assigns, to establish and keep a ferry from the landing on his land in the upper end of Muse's bottom in the county of Jackson, across the Ohio river to some convenient point on the opposite shore.

2. *Be it further enacted,* That the proprietors and keepers of said ferry shall at all times be subject to all the rules and regulations, provisions and penalties, and shall be entitled to all the privileges, rights and remedies contained in the act, entitled, "an act to reduce into one the several acts for the settlement and regulation of ferries," passed January the thirtieth, eighteen hundred and nineteen, and all subsequent acts and parts of acts of a public and general nature in relation to ferries.

3. *Be it further enacted,* That the rates for transportation across said river at the ferry hereby authorized shall be, for every man, twelve and a half cents; for every horse, mule, jack, or work ox, twelve and a half cents; for every head of neat cattle, six and a fourth cents; for all riding carriages, wagons and carts, the same per wheel as for a horse; and for every sheep, hog, goat or lamb, two cents, and no more: *Provided, nevertheless,* That the general assembly shall have power to regulate the said tolls and rates of toll from time to time as may be deemed expedient.

Time allowed to put ferry in operation.
Bond and security required.

4. *Be it further enacted*, That the said Henry Durst, his heirs and assigns, shall be allowed six months from and after the commencement of this act to get said ferry in operation; and shall give bond and security, conditioned as required by the nineteenth section hereinbefore recited, otherwise this act shall cease to have any force or effect, and be void as to the said Henry Durst, his heirs and assigns.

Commencement.

5. This act shall be in force from the passing thereof.

CHAP. 222.—An ACT to regulate ferries on the Kanawha river in the county of Mason.

[Passed April 6, 1838.]

Owners of ferries in Mason county prohibited from interfering with adjacent ferries.

1. *Be it enacted by the general assembly*, That hereafter it shall not be lawful for any person being the owner or occupier of a ferry, or the agent of such owner or occupier of any ferry on either side of the Kanawha river in the county of Mason, to interfere with the rights and privileges of any corresponding ferry on the opposite shore; and if any such owner or occupier, his or their agent, shall, for or without reward, take from the landing of the corresponding ferry aforesaid, or within half a mile above or below the same, any person or persons, horse or horses, cattle, sheep, hogs or other stock, or any wheel carriage, and carry him or them, such stock, or carriage as aforesaid across said river to the opposite shore, or within half a mile of the landing opposite, without the consent of the owner or occupier of such opposite or corresponding ferry, or his agent, every such person so offending shall forfeit and pay ten dollars for every such offence, one half to the informer, and the other half to the use of the commonwealth for the benefit of the literary fund, to be recovered with costs before any justice of the peace of the county of Mason, except when the recovery is had upon the oath of the informer only, then the whole penalty to the commonwealth for the benefit of the literary fund.

How recoverable.

2. This act shall be in force from its passage.

CHAP. 223.—An ACT authorizing Joseph Tomlinson to establish a ferry across the Ohio river.

[Passed March 8, 1838.]

Tomlinson's ferry across Ohio river established.

1. *Be it enacted by the general assembly*, That it shall be lawful for Joseph Tomlinson, his heirs and assigns, to establish and keep a ferry from his land in the county of Wood, across the Ohio river, to some convenient point on the opposite shore. The proprietor or proprietors, and keeper or keepers of said ferry, shall at all times be subject to all the regulations and penalties, and be entitled to all the rights and remedies contained in the act, entitled, "an act to reduce into one the several acts for the settlement and regulation of ferries," and in all subsequent acts and parts of acts of a public and general nature in relation to ferries.

Rates of ferrage.

2. *Be it further enacted*, That the rates for transportation across said river at said ferry, shall be, for every man twelve and a half cents; for every horse, mule, jack or work ox, twelve and a half cents; for all riding carriages, wagons and carts, the same per wheel as for a horse; for every head of neat cattle six and a quarter cents; and for every sheep, hog or goat, two cents, and no more:

Power to regulate tolls.

Provided, That the general assembly shall have power to regulate the said tolls from time to time, as may be deemed expedient.

3. *Be it further enacted*, That the said Joseph Tomlinson, his heirs and assigns, shall be allowed six months from and after the commencement of this act, to get the said ferry into operation, and to give bond and security as required in the nineteenth section of the aforesaid act, otherwise this act shall cease and be void.

4. This act shall be in force from its passage.

Commencement.

CHAP. 224.—An ACT concerning the Baltimore and Rappahannock steam packet company, and others.

(Passed February 14, 1838.)

Whereas the Baltimore and Rappahannock steam packet company, chartered by the legislature of the state of Maryland in the year eighteen hundred and thirty-four, purchased of one James Wilder, and received a conveyance therefor, a piece of land on Carter's creek in this commonwealth, containing ten acres, upon which they erected a wharf, for the convenience of themselves as well as for the public generally; that the said steam packet company afterwards sold and conveyed to one Henry Hazel the said piece of land, reserving their right to the end of time to build, repair, keep up and use, free of charge, a wharf upon the said land, at a point known by the name of "Wilder's point," and to use so much of the said land as might be amply sufficient for all the business of the said company's boats at the said wharf or landing; and that the said Henry Hazel, after erecting valuable improvements upon the land aforesaid, conveyed the same in trust to one George M. Gill, of the said state of Maryland, for the benefit of his creditors. And whereas doubts are entertained whether a company chartered by another state can legally purchase or hold real estate in this commonwealth, and the said company, together with the said Hazel and his trustee, and the said Wilder, having petitioned the legislature to legalize the several conveyances herein mentioned: Therefore,

1. *Be it enacted by the general assembly*, That the several conveyances aforesaid shall be and the same are hereby made good and valid between the parties respectively thereto, and sufficient to pass from the persons making the same such title to the land aforesaid as they may have held therein, and by them respectively conveyed. And the said steam packet company, they and their successors or assigns, are hereby authorized and empowered to hold and convey, or transfer at pleasure, all the rights, privileges and advantages, reserved under and by the conveyance or transfer aforesaid, executed by them to the said Henry Hazel.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 225.—An ACT to incorporate the Floating dry dock company.

(Passed March 14, 1838.)

1. *Be it enacted by the general assembly*, That John Thomas, Samuel D. Dakin, Benjamin H. Smith, and such other persons as may hereafter be associated with them, shall be and they are hereby incorporated and made a body politic and corporate, by the name and style of "The Floating dry dock company," for the purpose of constructing dry docks on the plan patented and introduced by captain John Thomas, for the repairing and coppering of all classes of vessels and steam boats; and that they are hereby invested with all rights, powers and privileges.

the rights and privileges and powers conferred on such bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and are hereby made subject to the reservations and regulations of said act.

Capital.

2. Be it further enacted, That the capital stock of said company shall not be less than one hundred thousand dollars, nor more than five hundred thousand dollars, and shall be divided into shares of one hundred dollars each; and that said company shall have the right to hold real estate sufficient for their dock yards, for the repairing vessels, and the constructing of docks at such places as may be thought expedient for them to construct the same.

Real estate.

3. Be it further enacted, That the legislature reserve the right to alter or repeal the charter hereby created whenever it may think proper.

Power to amend or repeal charter.

4. This act shall be in force from its passage.

Commencement.**CHAP. 226.—An ACT to amend the act to incorporate the trustees of the Female collegiate institute in the county of Buckingham.**

(Passed April 9, 1838.)

Number of trustees to constitute board reduced.

1. Be it enacted by the general assembly, That so much of the act, entitled, "an act to incorporate the trustees of the Female collegiate institute in the county of Buckingham," passed January the thirteenth, eighteen hundred and thirty-seven, as relates to the number of said trustees, be so amended as to authorize any seven thereof to constitute a board for the transaction of business.

Commencement.

2. This act shall be in force from its passage.

CHAP. 227.—An ACT to incorporate the trustees of the Fredericksburg academy.

(Passed March 28, 1838.)

Fredericksburg academy incorporated.

1. Be it enacted by the general assembly, That Thomas B. Barton, Reuben T. Thom, John M. Patton, R. B. Maury, John L. Marye, John H. Wallace, Murray Forbes and William Browne, be and they are hereby constituted a body politic and corporate, by the name and style of "The trustees of the Fredericksburg academy;" and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, with power to purchase, receive and hold, to them and their successors forever, any lands, tenements, rents, goods and chattels of what kind soever, which may be purchased by or devised or given to them for the use of the academy, and to lease, rent, sell, or otherwise dispose of the same in such manner as shall seem most conducive to the advantage of said academy: *Provided*, That the lands, goods and chattels so authorized to be held shall not exceed in amount or value the sum of twenty thousand dollars: *And provided*, That not less than a majority of the trustees for the time being shall be sufficient to authorize the sale or mortgage of any real estate belonging to said academy. The said trustees and their successors shall have power to appoint a president, tutors, treasurers, librarian, and such other officers as they may deem necessary, and to make and establish from time to time such by-laws, rules and regulations, not contrary to the laws of this state or of the United States, as they may judge necessary for the good government of said academy. A ma-

Corporate powers.**Value of property.**

Real estate, how disposed of.

Powers of trustees.

jority of the trustees shall constitute a board for the transaction of business; and any vacancy or vacancies amongst the trustees, occasioned by death, resignation, or legal disability, shall be supplied by appointment of the board.

2. The treasurer shall receive all moneys accruing to the academy and property delivered to his care, and shall pay or deliver the same to the order of the board. Before he enters on the discharge of his duties he shall enter into bond, with such security and in such penalty as the board may direct, made payable to the trustees for the time being, and their successors, and conditioned for the faithful performance of his duty, under such rules and regulations as may be adopted by the board; and it shall be lawful for the said trustees to obtain a judgment for the amount thereof, or for any special delinquencies incurred by said treasurer, on motion in any court of record of this commonwealth against the said treasurer and his securities, his or their executors or administrators, upon giving ten days previous notice of such motion.

3. *And be it further enacted,* That the legislature reserve the right to modify or repeal this charter.

4. This act shall be in force from its passage.

Charter under control of legislature.
Commencement.

CHAP. 228.—An ACT to incorporate the Greensville academy.

(Passed March 28, 1838.)

1. *Be it enacted by the general assembly,* That Ballard Smith, Benjamin F. Graham, Isaac Hall, William Lightner, James M. Lilley, M'Clung Patton and Alexander M'Corkle, be and they are hereby created a body politic and corporate, by the name and style of "The trustees of the Greensville academy in the town of Greensville in the county of Augusta;" and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, with power to purchase, receive and hold, to them and their successors forever, any lands, tenements, rents, goods and chattels of what kind soever, which may be purchased by or be devised or given to them for the use of the academy, and to lease, rent, sell, or otherwise dispose of the same, in such manner as shall seem most conducive to the advantage of said academy: *Provided*, That the lands, goods and chattels so authorized to be held shall not exceed in amount or value the sum of five thousand dollars: *And provided*, That not less than a majority of the trustees for the time being shall be sufficient to authorize the sale or mortgage of any real estate belonging to the said academy. The said trustees and their successors shall have power to appoint a president, tutors, treasurers, librarian, and such other officers as they may deem necessary, and to make and establish from time to time such by-laws, rules and regulations, not contrary to the laws of this state or of the United States, as they may deem necessary for the good government of said academy. A majority of the trustees shall constitute a board for the transaction of business, and any vacancy or vacancies amongst the trustees, occasioned by death, resignation or legal disability, shall be supplied by appointment of the board.

2. The treasurer shall receive all moneys accruing to the academy and property delivered to his care, and shall pay or deliver the same to the order of the board. Before he enters on the discharge of his duties, he shall enter into bond, with such security and in such penalty as the board may direct, made payable to the

Value of property.

Real estate, how disposed of.

Powers of trustees.

Quorum of trustees.

Vacancies supplied.

Penalty, how recoverable.

trustees for the time being, and their successors, and conditioned for the faithful discharge of his duty, under such rules and regulations as may be adopted by the board; and it shall be lawful for the said trustees to obtain a judgment for the amount thereof, or for any special delinquencies incurred by the said treasurer, on motion in any court of record in this commonwealth against the said treasurer and his security or securities, his or their executors or administrators, upon giving ten days notice of such motion:

Charter under control of legislature.

Commencement.

3. *Be it further enacted*, That the legislature reserve the right to modify or repeal this charter at pleasure.

4. This act shall be in force from its passage.

CHAP. 229.—An ACT incorporating the trustees of the James river academy, and for other purposes.

(Passed April 7, 1838.)

James river academy incorporated.

Corporate powers.

Value of property.

Real estate how sold.

Powers of trustees.

Board of trustees how constituted.

Vacancies supplied.

Duties of treasurer.

To execute bond.

1. *Be it enacted by the general assembly*, That the trustees for the time being of the town of Buchanan in the county of Botetourt, and their successors in office, be, and they are hereby constituted a body politic and corporate, by the name and style of "The trustees of the James river academy," to be located in the said town of Buchanan, and by that name and style shall have perpetual succession, with power to have and use a common seal; and the same to alter at pleasure, and may sue and be sued, plead and be impleaded, and shall have power to purchase, receive and hold, to them and their successors forever, any lands, tenements, rents, goods and chattels of what kind soever, which may be purchased by, or be devised or given to them, for the use of the academy, and to lease, rent, sell or otherwise dispose of the same in such manner as shall seem most conducive to the advantage of said academy,

Real estate how sold. *Provided*, That the lands, goods and chattels so authorized to be held, shall not exceed in amount or value, the sum of twenty thousand dollars: *And provided also*, That not less than a majority of the trustees aforesaid, for the time being, shall be sufficient to authorize the sale, or mortgage of any real estate belonging to said academy; the said trustees and their successors shall have power to appoint a president, tutors, treasurers, librarian, and such other officers as they may deem necessary, and to make and establish from time to time, such by-laws, rules and regulations, not contrary to the laws of this state or of the United States, as they may judge necessary for the good government of said academy. A majority of the said trustees shall constitute a board for the transaction of the business of said academy; and any vacancy or vacancies amongst the said trustees, occasioned by death, resignation or legal disability, shall be supplied by an appointment to be made for that purpose by the board of said trustees, and the person or persons so appointed, shall act as a trustee for the academy, until the vacancy shall be supplied in the board of trustees for the said town of Buchanan.

2. The treasurer shall receive all moneys accruing to the academy and property delivered to his care, and shall pay or deliver the same to the order of the board of trustees. Before he enters on the discharge of his duties, he shall enter into bond with such security, and in such penalty as the said trustees may direct, made payable to the said trustees for the time being, and their successors, and conditioned for the faithful performance of his duty. And it

shall be lawful for the said trustees to obtain a judgment for the ^{penalty how re-} amount thereof or for any special delinquencies incurred by the said ^{coverable.} treasurer, on motion in any court of record in this commonwealth against the said treasurer and his security or securities, his or their executors or administrators, upon giving ten days notice of such motion.

3. *Be it further enacted,* That the trustees of said town be, ^{power to borrow money.} and are hereby empowered to borrow a sum of money, not less than two nor more than four thousand dollars, to be applied under their superintendence and authority in aid of private contributions to the erection and endowment of the aforesaid academy, and to provide ^{Principal and interest how re-deemed.} for the payment of the annual interest, and the repayment in such instalments as may be agreed upon, of the principal of the sum so borrowed, by a tax upon all the subjects liable to taxation within said town under the laws of this commonwealth, which shall be ^{Taxes how collectable.} collected by the sheriff of the county or the sergeant of the town in like manner as other taxes are collected, and be paid over to the trustees of said town for the purposes aforesaid: *Provided,* That ^{Tax to be sanctioned by qualified voters of Buckhnan.} the said tax shall not be imposed until it shall have been authorized and the amount of tax to be levied upon each subject of taxation shall have been sanctioned at a poll to be held for that purpose by a majority of the votes which could be given in said town, for members of the general assembly: *And provided further,* That any subsequent increase of taxation for the purpose of paying the said interest and principal proposed by said trustees shall also be submitted to and be sanctioned by the voters of said town in like manner.

4. This act shall be in force from its passage.

Commencement.

CHAP. 230.—An ACT to incorporate the Marshall academy in the county of Cabell.

[Passed March 30, 1838.]

1. *Be it enacted by the general assembly,* That Benjamin Brown, Frederick G. L. Beuhring, James Gallaher, John Laidley, William Buffington, John Samuels, Richard Brown, Benjamin H. Smith and George W. Summers, be, and they are hereby constituted a body politic and corporate, by the name and style of "The trustees of the Marshall academy," to be located in the county of Cabell; and by that name shall have perpetual succession, and a common seal, may sue and be sued, plead and be impleaded, with power to purchase, receive and hold, to them and their successors forever, any lands, tenements, rents, goods and chattels, of what kind soever, which may be purchased by or be devised or given to them for the use of the academy, and to lease, rent, sell or otherwise dispose of the same, in such manner as shall seem most conducive to the advantage of said academy: *Provided,* That the lands, goods and chattels so authorized to be held, shall not exceed in amount or value the sum of twenty thousand dollars: *And provided,* That not less than a majority of the trustees for the time being, shall be sufficient to authorize the sale or mortgage of any real estate belonging to said academy. The said trustees and their successors shall have power to appoint a president, tutors, treasurers, librarian and such other officers as they may deem necessary, and to make and establish from time to time, such by-laws, rules and regulations, not

^{value of property.}

^{Real estate how sold.}

^{Powers of trustees.}

Board of trustees constituted.
Vacancies supplied.

Duties of treasurer.

To enter into bond.

Penalty how recoverable.

Charter under control of legislature.

Commencement.

Parkersburg academy incorporated.

Corporate powers.

Who to be members of association.

Property how to descend or be conveyed.

How and when sold.

contrary to the laws of this state or of the United States, as they may judge necessary for the good government of said academy. A majority of the trustees shall constitute a board for the transaction of business, and any vacancy or vacancies amongst the trustees, occasioned by death, resignation or legal disability, shall be supplied by appointment of the board.

2. The treasurer shall receive all moneys accruing to the academy and property delivered to his care, and shall pay or deliver the same to the order of the board. Before he enters on the discharge of his duties he shall enter into bond with such security and in such penalty as the board may direct, made payable to the trustees for the time being, and their successors, and conditioned for the faithful performance of his duty, under such rules and regulations as may be adopted by the board; and it shall be lawful for the said trustees to obtain a judgment for the amount thereof, or for any special delinquencies incurred by the said treasurer, on motion in any court of record in this commonwealth, against the said treasurer and his security or securities, his or their executors or administrators, upon giving ten days notice of such motion.

3. *Be it further enacted,* That the legislature reserve the right to modify or repeal this act at pleasure.

4. This act shall be in force from its passage.

CHAP. 231.—An ACT incorporating the Parkersburg academy association, and for other purposes.

[Passed April 5, 1838.]

1. *Be it enacted by the general assembly,* That all persons who, according to the provisions herein contained, shall become members of the institution hereby created, shall be and are hereby constituted a body politic and corporate, by the name and style of "The Parkersburg academy association;" and by that name shall have perpetual succession, may have and use a common seal, may sue and be sued, plead and be impleaded, and shall be capable in law to purchase, receive and hold property, both real and personal, and to lease, sell, or otherwise dispose of the same; and may make and establish, from time to time, such by-laws, rules and regulations, not contrary to the laws of this state, or of the United States, as they may deem necessary for well ordering and conducting the affairs of said association.

2. *Be it further enacted,* That every person subscribing and paying, as hereinafter prescribed, twenty-five dollars or upwards, shall be a member of said association, and shall have an interest in the property thereof, in proportion to such subscription and payment, and may transfer the same as an entire or integral share, and in case of his death intestate, it shall descend as real estate. But the sons of the body of the holder of any such interest shall hold the portions thereof which may descend or be devised to them in severally, and shall be respectively entitled to all the rights and privileges to which an original subscription of equal amount would entitle them. In the event of the dissolution of said association, the property thereof shall be sold, and the proceeds (after payment of debts,) be divided *pro rata* among the members, their heirs or assigns: *Provided,* That the interest of any member in the property of the association, or in the proceeds of the sale of any such pro-

perty, shall be in proportion to the amount actually paid by such member or the person under whom he claimed. Subscriptions to Vacancies in school how supplied.

a less amount than twenty-five dollars shall not entitle the subscribers to membership, nor to any interest in the property of the association; but the children, wards and apprentices of all persons subscribing and paying any sum not less than ten dollars, shall, as between applicants at the same time, have a preference in filling vacancies in the schools of the association.

3. *Be it further enacted*, That all subscriptions not exceeding Subscriptions how payable.

one hundred dollars, shall be paid to the treasurer hereinafter authorized to be appointed, in four quarter annual instalments; and when any subscription shall exceed that sum, the first one hundred dollars shall be paid as aforesaid, and the remainder in two semi-annual instalments thereafter: *Provided*, That until the gross subscriptions amount to two thousand five hundred dollars, only such proportion of the remainder aforesaid shall be required to be paid, as the whole amount subscribed bears to two thousand five hundred dollars.

4. *Be it further enacted*, That one third of all the subscribers, Quorum for business.

or a representation of one half of all the votes, shall be a quorum for the transaction of business or holding elections; and every male Who eligible as person acquiring an interest in the association by subscription, purchase, gift, devise or descent, to the amount of twenty-five dollars, shall be eligible to the office of trustee or treasurer, and shall have one vote in all questions or elections before the association; those Rates of votes.

acquiring an interest as aforesaid, to the amount of fifty dollars, shall be entitled to two votes; those to the amount of one hundred dollars, to three votes; and to one vote for every additional hundred dollars: *Provided*, That no one individual shall have more than five votes; and that no joint owner of an original share or interest in the property of said association shall be eligible to the office of trustee, or entitled to vote.

5. *Be it further enacted*, That any three of the subscribers entitled to become members of the said association, may call a general meeting of the subscribers, giving two weeks notice of the time and place of meeting in a newspaper printed in the town of Parkersburg; and from and after such general meeting, the said association shall be considered as duly organized and in being. At Trustees when the said general meeting, and at every annual meeting which shall be held at such time in each year as the by-laws of the association may from time to time prescribe, there shall be elected by ballot, nine trustees, who shall remain in office until the next annual election, and until their successors are elected, and who shall have Powers of trustees.

Term of office.

They shall, from amongst themselves, appoint a president and secretary, and from the members of the association, a treasurer, from whom they shall take bond with security, and in sufficient penalty, conditioned for the faithful disbursement, accounting for, and paying over to the order of the board of trustees, of all moneys received by him; and he may be allowed a commission thereon, not exceeding two and a half per centum. Officers how elected.

6. *Be it further enacted*, That all appropriations of money shall Money how appropriated.

be by the board of trustees, subject, however, to the control of the association. It shall be their duty, as soon as practicable, to procure a suitable lot in said town of Parkersburg, and to erect thereon Lot and buildings how procured.

such buildings and to get into operation such a school or schools as shall be designated by the by-laws of said association, and generally it shall be the duty of said trustees to carry into effect such plans and regulations as may from time to time be adopted by the said association. A majority of the trustees shall form a board for the transaction of business; and the board may call special meetings of the members of said association, after such notice as aforesaid, whenever such meeting is deemed expedient.

**Board of trustees
constituted.
Special meetings.**

**Western Virginia
silk company to
increase their
capital.**

7. *Be it further enacted*, That the Western Virginia silk and agricultural company be authorized to increase its capital stock thirty thousand dollars, and power is hereby given to the said company to erect the necessary steam mills to commence and carry on its work.

Commencement.

8. This act shall be in force from its passage.

CHAP. 232.—An ACT to incorporate the Union academy of Prince Edward county.

[Passed March 28, 1858.]

**Union academy of
Prince Edward in-
corporated.**

Corporate powers.

**Amount of pro-
perty; how sold.**

**Powers of trus-
tees.**

**Board of trustees.
Vacancies sup-
plied.**

**Duties of treasur-
er.**

To execute bond.

**Penalty how re-
coverable.**

1. *Be it enacted by the general assembly*, That William Mathews, Philip Watkins, Edmund Conner, Samuel Watkins, Peter Le Grand, Samuel Mitchell, jr., Rezin Potter, E. M. W. Durphy, J. M. Dearman, William L. Wood, Samuel B. Hill and Davis Hill, be; and they are hereby constituted a body politic and corporate, by the name and style of "The Union academy of Prince Edward county," and by that name and style shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, with power to purchase, receive and hold, to them and their successors forever, any lands, tenements, rents, goods and chattels, of what kind soever which may be purchased by or be devised or given to them, for the use of the academy, and to lease, rent, sell, or otherwise dispose of the same in such manner as shall seem most conducive to the advantage of said academy: *Provided*, That the lands, goods and chattels so authorized to be held, shall not exceed in amount or value, the sum of twenty thousand dollars: *And pro-
vided*, That not less than a majority of the trustees, for the time being, shall be sufficient to authorize the sale or mortgage of any real estate belonging to said academy. The trustees and their successors shall have power to appoint a president, tutors, treasurers, librarian and such other officers as they may deem necessary, and to make and establish, from time to time, such by-laws, rules and regulations, not contrary to the laws of this state or of the United States, as they may judge necessary for the good government of said academy. A majority of the trustees shall constitute a board for the transaction of business; and any vacancy or vacancies amongst the trustees, occasioned by death, resignation or legal disability, shall be supplied by appointment of the board.

2. The treasurer shall receive all monies accruing to the academy and property delivered to his care, and shall pay or deliver the same to the order of the board. Before he enters on the discharge of his duties, he shall enter into bond, with such security, and in such penalty as the board may direct, made payable to the trustees for the time being, and their successors, and conditioned for the faithful performance of his duty, under such rules and regulations as may be adopted by the board; and it shall be lawful for the said trustees to obtain a judgment for the amount thereof, or for any

special delinquencies incurred by said treasurer, on motion in any court of record in this commonwealth, against the said treasurer and his security or securities, his or their executors or administrators, upon giving ten days previous notice of such motion.

3. *And be it further enacted,* That the legislature reserve the right to alter or repeal this act at pleasure.

4. This act shall be in force from its passage.

Charter under
control of legisla-
ture.
Commencement.

CHAP. 233.—An ACT to incorporate the trustees of the Young ladies semi-
nary of Prince Edward.

(Passed March 28, 1838.)

1. *Be it enacted by the general assembly,* That Samuel C. Anderson, Branch J. Worsham, William H. Venable, John P. Mettaur, Jared Todd, Henry Thweatt, Joseph Todd and James D. Wood, be, and they are hereby constituted a body politic and corporate, by the name and style of "The trustees of the young ladies seminary of Prince Edward," and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, with power to purchase, receive and hold, to them and their successors forever, any lands, tenements, rents, goods and chattels of what kind soever, which may be purchased by or may be devised or given to them for the use of the seminary, and to lease, rent, sell or otherwise dispose of the same, in such manner as shall seem most conducive to the advantage of said seminary: *Provided* That the lands, goods and chattels so authorized to be held, shall not exceed in amount or value the sum of fifty thousand dollars: *And provided*, That not less than a majority of the trustees, for the time being, shall be sufficient to authorize the sale or mortgage of any real estate belonging to the said seminary. The said trustees and their successors, shall have power to appoint a president, tutors, treasurers, librarian and such other officers as they may deem necessary, and to make and establish from time to time, such by-laws, rules and regulations not contrary to the laws of this state or of the United States, as they may judge necessary for the good government of said seminary. A majority of the trustees shall constitute a board for the transaction of business; and any vacancy or vacancies amongst the trustees, occasioned by death, resignation or legal disability, shall be supplied by appointment of the board.

2. The treasurer shall receive all monies accruing to the seminary, and property delivered to his care, and shall pay or deliver the same to the order of the board. Before he enters on the discharge of his duties, he shall enter into bond, with such security and in such penalty as the board may direct, made payable to the trustees for the time being, and their successors, and conditioned for the faithful performance of his duty, under such rules and regulations as may be adopted by the board; and it shall be lawful for the said trustees to obtain a judgment for the amount thereof, or for any special delinquencies incurred by the said treasurer, on motion in any court of record in this commonwealth, against the said treasurer and his security or securities, his or their executors or administrators, upon giving ten days notice of such motion.

3. *Be it further enacted,* That the legislature reserve the right to modify or repeal this charter at pleasure.

4. This act shall be in force from its passage.

Charter under
control of legisla-
ture.
Commencement.

CHAP. 234.—An ACT to incorporate the Lovingston male and female school, and authorizing an appropriation to the same.

(Passed April 3, 1838.)

- Lovingston school incorporated.** 1. *Be it enacted by the general assembly,* That Charles Perrow, Arthur Hopkins, Wilson Peters and H. B. Scott, be, and they are hereby constituted a body politic and corporate, by the name and style of "The trustees of the Lovingston male and female school," and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, with power to purchase, receive and hold, to them and their successors forever, any lands, tenements, rents, goods and chattels, of what kind soever, which may be purchased by or be devised or given to them, for the use of the school, and to lease, rent, sell or otherwise dispose of the same, in such manner as shall seem most conducive to the advantage of said school: *Provided*, That the lands, goods and chattels so authorized to be held, shall not exceed in amount or value the sum of twenty thousand dollars: *And provided*, That not less than a majority of the trustees for the time being, shall be sufficient to authorize the sale or mortgage of any real estate belonging to the said school. The said trustees and their successors shall have power to appoint a president, tutors, treasurers, librarian and such other officers as they may deem necessary, and to make and establish from time to time, such by-laws, rules and regulations, not contrary to the laws of this state and of the United States, as they may judge necessary for the good government of said school. A majority of the trustees shall constitute a board for the transaction of business; and any vacancy or vacancies amongst the trustees, occasioned by death, resignation or legal disability, shall be supplied by appointment of the board.
- Powers of trustees.** 2. The treasurer shall receive all monies accruing to the school and property delivered to his care, and shall pay or deliver the same to the order of the board. Before he enters on the discharge of his duties, he shall enter into bond, with such security, and in such penalty as the board may direct, made payable to the trustees for the time being, and their successors, and conditioned for the faithful discharge of his duty, under such rules and regulations as may be adopted by the board; and it shall be lawful for the said trustees to obtain a judgment for the amount thereof, or for any special delinquencies incurred by the said treasurer, on motion in any court of record in this commonwealth, against the said treasurer and his security or securities, his or their executors or administrators, upon giving ten days previous notice of such motion.
- Board of trustees.** 3. *Be it further enacted*, That the second auditor be, and he is hereby authorized and required to issue his warrants for the sum of two hundred and forty-one dollars and thirty-nine cents, being the interest heretofore paid by the treasurer of the school commissioners of Nelson county, and the further sum of two hundred and fifty-eight dollars and sixty-one cents, payable out of the quotas of the county of Nelson, which have been forfeited to the literary fund, to be applied by the trustees appointed by this act towards the completion of the buildings.
- Vacancies supplied.** 4. This act shall be in force from its passage.
- Duties of treasurer.**
- To execute bond.**
- Penalty how recoverable.**
- Appropriation made from literary fund.**
- Commencement.**

CHAP. 235.—*An ACT to incorporate the Petersburg classical institute.*

(Passed April 4, 1838.)

Whereas it is represented to the general assembly that an association has been formed in the town of Petersburg for the establishment of a classical school, in which the higher branches of a liberal education will be taught, and the cause of learning promoted:

1. *Be it enacted by the general assembly,* That Benjamin Jones, David Dunlop, John E. Lemoine, Andrew S. Holderby, E. C. Hutchinson, Robert Ritchie, John Dunn, Thomas Shore, Edwin James, Archibald G. M'Ilvaine, John Maben, Jonathan Smith and George W. Bolling, and all other persons who may hereafter become stockholders in the Petersburg classical institute, shall be and they are hereby created and made a body politic and corporate, with a capital stock of nine thousand five hundred dollars, in shares of Capital. five hundred dollars each, to constitute a joint capital stock, by the name and style of "The Petersburg classical institute," and by that Corporate powers. name and style shall have perpetual succession, and be capable to hold and dispose of property, real and personal, to sue and be sued, plead and be impleaded, answer and defend, and be answered and defended, in courts of law and equity, or in any other place whatsoever; to receive and make all deeds, transfers, contracts, covenants, conveyances and grants, and to make, have and use a common seal, and the same to change and renew at pleasure, and generally to do any other act and thing necessary to carry into effect and promote the objects of the said corporation, not contrary to the provisions of this or any other law.

2. *Be it further enacted,* That there shall be a general meeting General meetings, when and where. of the stockholders of the said Petersburg classical institute, on such day in the month of May next, and at such place as any seven or more persons named in the first section of this act shall appoint, giving at least ten days notice thereof in one or more of the newspapers published in the town of Petersburg, and on such day in the month of May and at such place annually thereafter as the by-laws of the said institute shall provide, for the purpose of choosing from Directors, how among the stockholders seven directors to manage the affairs of said institute for twelve months thereafter, and until a new election shall take place; in which elections and in all meetings of the stockholders each stockholder shall be entitled to one vote for every share of stock respectively held by him or her, and may vote in person or by proxy, in such manner as may from time to time be prescribed in general meeting; and the judges of the first election shall be elected by the stockholders present, and the judges of all future elections shall be appointed by the board of directors: *Provided,* That in all general meetings a majority of the stock shall be represented.

3. *Be it further enacted,* That the directors for the time being Powers of direc. or a majority of them shall have power to elect a president from tors. their own body; to call general meetings of the stockholders to supply vacancies in their own body; to appoint such officers, agents and clerks as the stockholders in general meeting shall authorize; to take bonds with sufficient security for the good conduct, fidelity and attention of such officers, agents and clerks, and to do all other lawful acts and things touching the affairs of the company not otherwise specially provided for in this act; and if there should be no election of directors at any annual meeting as hereinbefore di-

rected, the directors then in office shall continue until the next annual election, or until an earlier election by the stockholders in general meeting, provided notice of such earlier election be previously advertised for ten days in some newspaper printed in the town of Petersburg.

**Stock personal estate.
How transferred.**

4. *Be it further enacted*, That the stock of the said Petersburg classical institute shall be deemed personal estate, and may be transferred in such manner as the president and directors shall from time to time prescribe: *Provided*, That nothing herein contained shall be so construed as to prevent the said corporation from selling or conveying all or any part of the land with the appurtenances which they may acquire and hold, or the said land or appurtenances when sold, from being considered real estate.

Remedy against delinquent stockholders.

5. *Be it further enacted*, That if any stockholder shall fail to pay the amount subscribed by him or her at the time and in the proportions prescribed by the president and directors, it shall be lawful for the corporation to recover the amount which may be so due and unpaid, with costs, on motion, after thirty days notice, in any court of record in this commonwealth; and such delinquent shall receive no dividend, nor be permitted to transfer or convey his, her or their stock until the amount so due upon his, her or their subscription shall have been paid.

Power to augment capital.

6. *Be it further enacted*, That the said corporation are hereby authorized to increase the said capital stock from time to time as they may find it expedient, not exceeding fifty thousand dollars, and in such manner as said corporation shall in general meeting prescribe.

Liability of members for debts of company.

7. *Be it further enacted*, That the members of the said corporation shall not be liable in their persons or property for any debts, contracts or engagements of the said corporation other than the property they have in the capital stock of the said corporation, to the amount of the share or shares held by them.

Dividends.

8. *Be it further enacted*, That the president and directors shall, at such times as they may determine, make and declare dividends of the nett profits arising from the resources of said corporation.

**Commencement.
Charter under control of legislature.**

9. This act shall be in force from and after the passage thereof: *Provided*, That nothing herein contained shall restrain the general assembly from amending, altering or repealing the same at pleasure.

CHAP. 236.—An ACT to incorporate the Western Virginia education society.
(Passed March 28, 1838.)

Western Virginia education society incorporated.

1. *Be it enacted by the general assembly*, That Joseph Johnson, William A. Harrison, Augustus J. Smith, Frederick Burdett, William Davidson, James W. M. Tisdale, Cornelius Huff, John Cather, Henson Huff, John Leeper, John Asbury, E. J. Armstrong, Solomon Jarvis, Isaac Blue, John Goff, Jonathan T. Cury, John Davidson, Abraham Smith, John Waldo and William Corder, together with such other persons as have been, or shall, from time to time, be duly admitted members of the Western Virginia education society, provided that no one be so admitted except upon payment to the treasurer thereof of ten dollars or more, shall be and they are hereby constituted a body politic and corporate, by the name and style of "The Western Virginia education society," and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, with power to purchase, receive and hold, to them and their successors forever, any lands,

Corporate powers.

tenements, rents, goods and chattels, of what kind soever, which may be purchased by, or be devised or given to them for the use of the society, and to lease, rent, sell, or otherwise dispose of the same, in such manner as shall seem most conducive to the advantage of said society: *Provided*, That the lands, goods and chattels, so authorized to be held, shall not exceed in amount or value the sum of thirty thousand dollars: *And provided*, That not less than a majority of the trustees hereafter authorized to be appointed by the said society, shall be sufficient to authorize the sale or mortgage of any real estate belonging to the society. The said society shall appoint a board of trustees, to consist of not less than seven nor more than thirteen, who shall have power to appoint a president, tutors, treasurers, librarian, and such other officers, as they may deem necessary, and to make and establish, from time to time, such by-laws, rules and regulations, not contrary to the laws of this state, or of the United States, as they may judge necessary, for the good government of said society. A majority of the trustees shall constitute a board for the transaction of business; and any vacancy or vacancies amongst the trustees, occasioned by death, resignation, or legal disability, shall be supplied by appointment of the board.

2. The treasurer shall receive all monies accruing to the society, and property delivered to his care, and shall pay or deliver the same to the order of the board. Before he enters on the discharge of his duties, he shall enter into bond with such security, and in such penalty, as the board may direct, made payable to the trustees for the time being, and their successors, conditioned for the faithful performance of his duty, under such rules and regulations as may be adopted by the board, and it shall be lawful for the said trustees to obtain a judgment for the amount thereof, or for any special damages incurred by the said treasurer, on motion in any court of record in this commonwealth, against the said treasurer, and his security or securities, his or their executors or administrators, upon giving ten days notice of such motion.

3. *Be it further enacted*, That the legislature reserve the right to modify or repeal this charter at pleasure.

4. This act shall be in force from its passage.

CHAP. 237.—An ACT to incorporate the Lewisburg lyceum.

(Passed April 2, 1838.)

1. *Be it enacted by the general assembly*, That John M'Elhenny, Edward B. Bailey, Patrick Beirne, James H. Nesmeth, William Paxton, jun'r, Simon L. Stubbs, Thomas Creigh and Samuel Price, and all other persons hereafter becoming members of the institution herein established, shall be and they are hereby created and made a body politic and corporate, by the name and style of "The Lewisburg lyceum," and they are hereby invested with all the rights, privileges and powers conferred, and made subject to all the regulations and restrictions imposed on the Charlottesville lyceum, by an act passed the twenty-fourth day of March, eighteen hundred and thirty-seven.

2. *Be it further enacted*, That it shall be competent to the general assembly to modify and repeal this act, and all other acts which may hereafter be passed to incorporate any academy or other literary institution whatever, whether the power be therein reserved or not.

3. This act shall be in force from the passing thereof.

Amount of property.
How sold.

Powers of society.

Board of trustees.

Vacancies sup-

plied.

Treasurer's
duties.
To execute bond.

Penalty, how re-
coverable.

Charter under
control of legis-
lature.

Commencement.

Members of Lew-
isburg lyceum in-
corporated.

Powers, rights and
liabilities.

Acts 1836-7,
P. 178.

Charter under
control of legis-
lature.

Commencement.

CHAP. 238.—An ACT to incorporate the Scottsville lyceum.

(Passed. March 8, 1838.)

Members of
Scottsville lyceum
incorporated.

1. *Be it enacted by the general assembly of Virginia,* That Benjamin H. Magruder, J. T. Barclay, E. H. Jordan, John H. Faris, Joshua W. Mason, Gilly M. Lewis, John F. Smith, Barclay Moon, Samuel H. Young, and Benjamin J. Darnille, together with such other persons as have been, or shall from time to time be associated with them as members of the Scottsville lyceum, shall be, and they are hereby created a body politic, under the name and style of "The Scottsville lyceum," for literary and scientific purposes; and they are hereby invested with all the rights, privileges and powers conferred on the Charlottesville lyceum, by an act passed on the twenty-fourth day of March, eighteen hundred and thirty-seven, entitled, "an act to incorporate the Charlottesville lyceum," and are also made subject to the restrictions and regulations prescribed by said act.

Powers, rights and
liabilities.

Acts 1836-7, p.
178.

Commencement.

2. This act shall be in force from its passage.

CHAP. 239.—An ACT to incorporate the Marshall society of Buchanan.

(Passed March 26, 1838.)

Marshall society
of Buchanan in-
corporated.

1. *Be it enacted by the general assembly,* That O. W. Kean, W. W. Boyd, A. B. Magruder, John B. Miner, Samuel Leitch, George H. Peck, John J. Martin, John S. Wilson, B. E. Trennis, John B. Strange, George W. Davies, John B. Pate, John G. M'Clannahan, Jordan Anthony, John B. Osborne, David I. Garth, William H. Douthat, Samuel B. Anthony, M. Pendleton, Edmund Pendleton, Lafayette B. Wood, James B. Wilson, C. G. Hill, John L. Lyle and Andrew L. Boyd, together with such other persons as shall from time to time be duly admitted members of a literary society in the town of Buchanan, under the name of the Marshall society, according to the rules and regulations which may from time to time be established by the by-laws of the corporation hereinafter created, shall be and they are hereby created a body politic and corporate, by the name and style of "The Marshall society of Buchanan;" and they are hereby invested with all the rights, powers and privileges conferred on the Charlottesville lyceum, by an act passed the twenty-fourth day of March, eighteen hundred and thirty-seven, and are made subject to all the regulations and restrictions prescribed by said act.

Powers, rights and
liabilities.
Acts 1836-7, p.
178.

Commencement.

2. This act shall be in force from the passing thereof.

CHAP. 240.—An ACT to incorporate the Fincastle library company.

(Passed April 4, 1838.)

Fincastle library
company incorpo-
rated.

Corporate powers

1. *Be it enacted by the general assembly,* That Francis T. Anderson, Ferdinand Woltz, Robert Cawthon, Edward Johnston, W. M. Bowen, James Walron, O. Callaghan, T. G. Godwin, William Robinson, Robert M. Hudson, Alexander P. Eskridge, Charles Aunspaugh, D. W. Love, William N. Anderson, James T. Logan, Thomas Brown, Benjamin Arman and Jacob Woltz, and all and every person or persons hereafter becoming members of the Fincastle library company, shall be and are hereby created and made a body politic and corporate, by the name and style of "The Fincastle library company;" and by that name and style shall have perpetual succession, and be capable by law to hold and dispose of

property, to sue and be sued, plead and be impleaded, answer and defend, and be answered and defended, in courts of law and equity, or in any other place whatsoever, and to receive and make all deeds, transfers, contracts, covenants, conveyances and grants whatsoever, and to make, have and use a common seal, and the same to change and renew at pleasure, and generally to do every act and thing necessary and proper to carry into effect the design of said corporation.

2. The number of said company, or such portion thereof as they ^{special powers.} shall determine, to be a quorum for such purposes, provided they be not less than five, shall have power to make such by-laws, rules and regulations, not contrary to the constitution and laws of this state, or of the United States, as they may deem proper for the government of said company, and to appoint such officers as they may deem necessary, and the same to remove at pleasure, at least five members concurring in such removal, and to provide for the admission and expulsion of members, and to require and collect of persons admitted or to be admitted as members, such admission fees as they may deem requisite for the purposes of said company.

3. This act shall at all times be liable to be altered or repealed, ^{Charter under control of legislature.} as the general assembly of Virginia may think proper.

4. This act shall be in force from the passing thereof.

^{Commencement.}

CHAP. 241.—An ACT incorporating the Bedford savings bank at Liberty.

(Passed March 26, 1838.)

1. *Be it enacted by the general assembly,* That William L. Goggin, John A. Wharton, Micajah Davis, Joseph Wilson, William M. Burwell, Alexander S. Hawkins, Thomas L. Leftwich, William Terry, James F. Johnson, William Cook, Robert C. Mitchell, Samuel Hoffman, John W. Holt, Alfred A. Bell, Frederick Aunspaugh, Peter Aunspaugh, Robert G. Bell, Edwin J. Bell, Francis H. Bell, Benjamin A. Donald, Davis & Philips, Martin P. Burks, William Evans, Alfred E. H. Edgar, William Ewing, Baldwin Farnham, Marquis D. Gray, William Harris, William L. Holt, Fountaine M. Hawkins, John Hoffman, John W. Holt, junior, Mildred O. Leftwich, James T. Leftwich, Absalom Hunter, Harvey Mitchell and Thomas Matthews, together with such other persons as are now, or may hereafter become associated with them, shall be and they are hereby created and made a body politic and corporate, by the name and style of “The Bedford savings bank at Liberty,” and ^{Rights, powers and liabilities.} by that name are hereby invested with all the rights, powers and privileges conferred, and made subject to all the rules, regulations and restrictions imposed, by the act, entitled, “an act prescribing certain general regulations for the incorporation of savings institutions, societies or banks,” passed at the present session of the general assembly: *Provided however,* That the said bank may have not ^{Number of directors.} less than seven nor more than eleven directors.

2. *And be it further enacted,* That the capital stock of said bank ^{Capital.} may from time to time be increased to any amount not exceeding one hundred thousand dollars.

3. This act shall be in force from its passage.

^{Commencement.}

CHAP. 242.—An ACT incorporating the Buchanan and Pattonsburg savings bank.

(Passed April 4, 1838.)

Buchanan and
Pattonsburg sav-
ings bank incor-
porated.Rights, powers
and liabilities.

Capital.

Commencement.

1. *Be it enacted by the general assembly,* That John M. Harvey, John N. Johnson, W. R. Mitchell, Alton B. Magruder, Samuel B. Anthony, William A. Watson, Joseph K. Pitzer, Bowman & Strickland, Joseph T. Bowman, Joshua Taylor, John B. Osborne, George W. Strickland, George H. Peck, Magdalene C. Wilson, Clifton G. Hill, Jacob A. Hany, M. P. Borling, James R. Reid, O. W. Kean, M. Pendleton, C. H. Burks, Samuel Leitch, James Farris and T. J. Obenchain, together with such other persons as are now or may hereafter become associated with them, shall be, and they are hereby created and made a body politic and corporate, by the name and style of "The Buchanan and Pattonsburg savings bank," and by that name and style are hereby invested with all the rights, powers and privileges conferred, and made subject to all the rules, regulations and restrictions imposed by the act, entitled, "an act prescribing certain general regulations for the incorporation of savings institutions, societies or banks," passed at the present session of the general assembly.

2. *And be it further enacted,* That the capital stock of said savings bank, may, from time to time, be increased to any amount not exceeding twenty thousand dollars.

3. This act shall be in force from its passage.

CHAP. 243.—An ACT incorporating the Charlottesville savings institution.

(Passed April 4, 1838.)

Charlottesville
savings institu-
tion incorporated.Rights, powers
and liabilities.

Capital.

Commencement.

1. *Be it enacted by the general assembly,* That John Timberlake, Egbert R. Watson, Benjamin B. Winn, John Cockran, James L. Jones, C. Norris, Charles Carter, William A. Bibb, Addison Maupin, James H. Goss, C. Hornsey and Lucian Minor, together with such other persons as are now or may hereafter become associated with them, shall be, and they are hereby created and made a body politic and corporate, by the name and style of "The Charlottesville savings institution," and by that name are hereby invested with all the rights, powers and privileges conferred, and made subject to all the rules, regulations and restrictions imposed by the act, entitled, "an act prescribing certain general regulations for the incorporation of savings institutions, societies or banks," passed at the present session of the general assembly.

2. *Be it further enacted,* That the capital stock of said institution may, from time to time, be increased to any amount not exceeding fifty thousand dollars.

3. This act shall be in force from its passage.

CHAP. 244.—An ACT incorporating the Farmville savings bank.

(Passed March 29, 1838.)

Farmville savings
bank incorporated.

1. *Be it enacted by the general assembly,* That James Madison, Clement C. Read, F. W. Smith, J. W. Morton, M. R. Flippin, T. S. Morton, Joseph E. Venable, J. P. Ranson, Edmund Wiltse, Mathew W. Vaughan, Archibald Vaughan, Henry Tbweatt, W. Nunally, Abraham Z. Venable, Thomas B. Philips, Charles A. Morton, Josiah W. Brightwell, James N'Nutt, William H. Chappell, Samuel Ritchie, Edward Wiltse, Charles Thackston, Jeremiah

Porter, Reuben Bootwright, W. W. Thackston, H. B. Scott, John D. Smith, Samuel Croxton, Peter F. Anderson, Clement R. Barksdale, John B. Bell, John Rice, B. C. Peters, John E. Smith, Nathaniel D. Price and Fayette V. Morton, together with such other persons as are now, or may hereafter become members of the association hereinafter incorporated, shall be, and they are hereby created and made a body politic and corporate, by the name and style of "The Farmville savings bank," and by that name and style shall have and enjoy all the rights, powers and privileges conferred by the act, entitled, "an act prescribing certain general regulations for the incorporation of savings institutions," passed at the present session of the general assembly, and be subject to all the rules, regulations and restrictions imposed by that act.

Rights, powers
and liabilities.

2. *And be it further enacted*, That the joint fund of the said Capital savings bank may, from time to time, be increased to any amount not exceeding one hundred thousand dollars.

3. This act shall be in force from its passage.

Commencement.

CHAP. 245.—An ACT to amend the act, entitled, "an act to incorporate the Fincastle savings institution in the county of Botetourt," passed March twenty-fifth, eighteen hundred and thirty-seven.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly of Virginia*, That each share of stock in the Fincastle savings institution shall be of the ~~par~~ ^{Value of shares of stock reduced.} value of ten dollars, instead of one hundred dollars as is now prescribed by the sixth section of the act, entitled, "an act to incorporate the Fincastle savings institution in the county of Botetourt," passed March the twenty-fifth, eighteen hundred and thirty-seven, and that the proviso of the said section be, and the same is hereby repealed: *Provided however*, That no stockholder shall vote more than fifty votes, nor shall any person in his own right, or by proxy combined, represent more than eighty votes.

2. This act shall be in force from and after the passing thereof. Commencement.

CHAP. 246.—An ACT incorporating the Citizens savings bank at Lynchburg.

(Passed March 28, 1838.)

1. *Be it enacted by the general assembly*, That John R. M'Daniel, Joshua R. Holmes, James T. Stevens, R. W. Collins, John T. Davis, Charles L. Mosby, John W. Young, John M'Kinney, Joseph Marsh, P. & J. W. Dudley, John R. D. Payne, Charles Newhall, Thomas Austin, G. D. & J. T. Davis, James B. Renwick, John Kinnier, William M. Davis, John B. Nowlin, Howell Lewis, George Bagby, Sim. Austin, John T. Hunt, David R. Lyman, C. M'Ivor, Michael Hart, R. T. Elliott, Thomas M'Kinney, Michael Norris, Jordan Creasy, Thomas A. Bransford, J. C. Shackleford, G. G. Williams and William Daniel, junior, together with such other persons as are now or may hereafter become associated with them, shall be, and they are hereby created and made a body politic and corporate, by the name and style of "The Citizens savings bank at Lynchburg," and by that name and style shall be invested with all the rights, powers and privileges conferred, and made subject to all the rules, regulations and restrictions imposed by the act, entitled, "an act prescribing certain general regulations for the incorporation of savings institutions, societies or banks," passed on the twenty-fourth day of March, eighteen hundred and thirty-eight.

Citizens savings
bank at Lynchburg
incorporated.

Rights, powers
and liabilities.

Red Sulphur—Shannondale Springs Company.

Capital. 2. *And be it further enacted,* That the capital stock of said bank may, from time to time, be increased to any amount not exceeding one hundred thousand dollars.

Commencement. 3. This act shall be in force from the passing thereof.

CHAP. 247.—An ACT to amend an act, entitled, “an act to incorporate the Red Sulphur springs company.”

(Passed February 12, 1838.)

Power to increase capital. 1. *Be it enacted by the general assembly,* That it shall be lawful for the Red Sulphur springs company to increase their capital stock fifty thousand dollars, making in all, two hundred and seventy thousand dollars, and that books of subscription may be opened by William Burke, owner and proprietor of said springs, at such places as he may deem proper.

Commencement. 2. This act shall be in force from its passage.

CHAP. 248.—An ACT to incorporate the Shannondale springs company in the county of Jefferson.

(Passed March 23, 1838.)

Shannondale springs company incorporated. 1. *Be it enacted by the general assembly,* That Andrew Kennedy, Joseph T. Dougherty, Robert T. Brown, George W. Hammond, William Yates, John S. Gallaher, William Crow, John B. H. Fulton, Charles G. Stewart and James L. Ranson, and their associates, and all others who may hereafter subscribe for, or become owners of the stock hereby authorized, be, and they are hereby constituted a body politic and corporate, under the name and style of “The Shannondale springs company,” for the purpose of extending the buildings and improvements at said springs for the accommodation of invalids and others who may resort to the same, and extending the benefits to be derived from the use of the water

Corporate powers. by the public; and by that name and style, they and their successors may have continual succession, sue and be sued, contract and be contracted with, have and use a common seal, and change the same at pleasure; may purchase and hold real estate not exceeding one thousand acres, and may sell and convey, lease out or rent any portion thereof; and, may purchase and hold real property for the purpose of conducting the business of the said company, and shall

By-laws. have power to make such by-laws, rules and regulations not contrary to the laws of the United States, or of this commonwealth, as may from time to time be directed in general meeting: *Provided,* That the said company shall not be authorized by any thing in this act contained, to hold real estate in any other county than in the county of Jefferson; and that whosoever the capital stock of the said company shall be concentrated by purchase or otherwise, into the hands of less than five members of the said company, all the corporate privileges hereby granted shall cease and determine.

Capital. 2. *Be it further enacted,* That the capital stock of the said company shall not be less than thirty-nine thousand dollars, nor more than one hundred thousand dollars, to be divided into shares of one hundred dollars each, whereof the said Andrew Kennedy, Joseph T. Dougherty, Robert T. Brown, George W. Hammond, William Yates, John S. Gallaher, William Crow, John B. H. Fulton and Charles G. Stewart, shall be taken and held to be subscribers to the amount of forty shares each, and the said James L.

Subscription by proprietors.

Ranson shall be taken and held to be a subscriber to the amount of thirty shares, upon the first organization of said company.

3. Be it further enacted, That for the purposes of managing the affairs of the said company, there shall be chosen at the first meeting of the said subscribers, and on the first Monday in August annually thereafter, five directors, who shall be stockholders of the said company, and shall remain in office until the first Monday in August next ensuing the date of their election, or until their successors are appointed. The said directors, a majority of whom shall form a quorum for the transaction of business, may choose a president, and in his absence, a president *pro tempore*; they shall have power to supply vacancies in their own body; to call special meetings of the stockholders; to appoint such officers, agents and clerks as shall be authorized in general meeting; to take bonds for the fidelity and attention of such officers, agents and clerks, and to do all other acts and things touching the affairs of the company, not otherwise provided for.

4. Be it further enacted, That the first meeting of the stockholders or subscribers aforesaid, shall be held at the Shannondale springs in the county of Jefferson, thirty days previous notice of the time of holding said meeting having been given by publication thereof in some newspaper published in or near the said county of Jefferson; or if there be no such newspaper in or near the said county at the time, then the notice aforesaid to be published in some one of the newspapers printed in the city of Richmond.

5. Be it further enacted, That the president and directors of the said company shall have power under the direction of the stockholders in general meeting, to sell from time to time, additional stock in said company not exceeding the entire capital stock thereof hereby authorized, having first fixed the time and place of offering such additional stock or shares in said company for sale, and given at least thirty days notice thereof in one or more of the public newspapers mentioned in the preceding section. The purchasers of such additional stock shall be entitled to all the rights and privileges in said company as if they had been original stockholders therein.

6. Be it further enacted, That if any subscriber shall fail to pay the amount subscribed by him or her, at the time prescribed by the president and directors for the payment thereof, it shall be lawful for the company to recover the amount which may be so due, by action of debt in any court of record in this commonwealth; and such delinquents shall receive no dividend until the whole amount of such subscription shall have been paid; moreover, it shall be lawful for said president and directors, in case of such default, to make sale of the share or shares of such delinquent, or of so many thereof as shall be required to satisfy the amount due at the time of such sale: *Provided*, That no such sale shall take place until such default shall have continued for three months prior thereto: *And provided further*, That nothing herein contained shall be so construed as to affect or impair in any manner whatever the rights or immunities of the original stockholders, under any agreement or contract entered into by them previous to the passage of this act.

7. Be it further enacted, That at all elections of directors of said company, each proprietor or owner of five shares shall be enti-

President and di-
rectors how and
when chosen.

Their powers and
duties.

First general
meeting when and
where.

Power to sell ad-
ditional stock.

Rights of pur-
chasers.

Remedy against
delinquent stock-
holders.

Votes of stock-
holders.

tled to one vote; of ten shares, to two votes; of fifteen shares, to three votes; of twenty shares, to four votes; of thirty shares, to five votes; of forty shares, to six votes; of sixty shares, to seven votes; of eighty shares, to eight votes; of one hundred shares, to ten votes; of one hundred and forty shares, to eleven votes; of one hundred and eighty shares, to twelve votes; of two hundred shares and upwards, to fifteen votes. And a majority of all the shares shall be necessary to a choice, or the transaction of any other business which may come before the stockholders. Dividends of the nett profits of the said company shall be made at such times as shall be determined and fixed upon by the stockholders in general meeting; and should any portion of the capital of said company be included in any dividend, the directors by whom such dividend is declared shall be liable respectively to all persons holding claims or demands against the said company at the time of declaring such dividend; and moreover, each stockholder who participates in the dividend of such capital stock shall be liable to such creditor or creditors to the extent of such capital stock received by him or her under such dividend.

Stock deemed personal estate and transferrable.

8. *Be it further enacted,* That the stock of said company shall be deemed personal estate, and shall pass as such to the representatives of each stockholder, and may be transferred, and certificates thereof issued in such manner and form as the president and directors or stockholders in general meeting shall from time to time provide and direct: *Provided*, That nothing herein contained shall be so construed as to prevent the said company from selling and conveying any part of such real estate as they may hold, and which may be hereby incorporated into stock and declared personal estate, or to authorize the conveyance of such real estate, when sold or disposed of, in any other or different manner than that prescribed by the laws of this commonwealth for the conveyance and disposal of real estate, and when it is so sold and conveyed, from being considered and held as real estate.

Waters to be analysed.

9. *Be it further enacted,* That the privileges hereby granted shall cease and determine, unless the proprietors of the said springs shall, within eighteen months after the organization of the company, cause the waters thereof to be carefully subjected to a thorough analysis by a chemist, whose selection shall be approved by the executive of this commonwealth, and the result of such analysis to be published for the benefit of the community.

Commencement.

10. This act shall be in force from and after the passing thereof.

CHAP. 249.—An ACT to incorporate the Washington White Sulphur and Thermal springs company in the county of Morgan.

(Passed April 6, 1838.)

Washington White Sulphur and Thermal springs company incorporated.

1. *Be it enacted by the general assembly,* That Cromwell Orrick, and such other persons as may be hereafter associated with him, shall be and are hereby incorporated and made a body politic and corporate, under the name and style of "The Washington White Sulphur and Thermal springs company," for the purpose of improving and carrying on a house or houses of entertainment, for visitors and invalids who may resort to the springs now owned by the above named corporator in the county of Morgan; and they are hereby invested with all the rights, privileges and powers, in relation to the formation and management of said company, conferred

Rights, powers and liabilities.

by the act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed the ^{Acts 1836-7, pp. 74-79.} thirteenth day of February, eighteen hundred and thirty-seven, and are made subject to the restrictions and regulations prescribed by said act.

2. *Be it further enacted,* That the capital stock of said company shall not be less than fifty thousand dollars, nor more than one hundred thousand dollars, to be divided into shares of one hundred dollars each; and the said company shall have the right to purchase real estate, and hold land, not exceeding one thousand acres, at or near the said springs.

3. *Be it further enacted,* That the privileges conferred by this ^{Waters to be analysed.} act shall cease and be of no avail, unless the proprietors of said springs shall, within eighteen months after the organization of the said company, cause the waters thereof to be carefully subjected to a thorough analysis by a competent chemist, whose selection shall be approved by the executive of this commonwealth; and the ^{Result to be published.} analysis to be published for the benefit of the community.

4. This act shall be in force from its passage.

Commencement.

CHAP. 250.—An ACT to incorporate the Eagle hotel company of the city of Richmond.

[Passed March 27, 1838.]

Whereas it is represented to the general assembly by Abner Robinson and Isham Puckett, that they are joint owners in fee simple in equal proportions, of certain property, real and personal, situate in the city of Richmond, called and known as the Eagle hotel, consisting of the tavern, the furniture, fixtures and appurtenances, and the lots with the improvements thereon adjoining thereto, but which have not been usually held and enjoyed therewith; and that it is considered desirable that said property should be placed under such auspices as more effectually to secure the convenience and benefit of so large an establishment: Therefore,

1. *Be it enacted by the general assembly,* That Abner Robinson and Isham Puckett, together with all others who may hereafter subscribe for or become owners of stock in the company hereby authorized, shall be and they are hereby constituted a body politic and corporate, under the name and style of "The Eagle hotel company of the city of Richmond;" and by that name and style they and their successors may have perpetual succession, may sue and be sued, contract and be contracted with, have and use a common seal, and change the same at pleasure, may purchase and hold such real estate and personal property as may be necessary for conducting the said establishment, not exceeding two lots over and above that now belonging to the said premises. And may sell and convey, lease or rent out the same, or any part thereof; and shall have power to make such by-laws, rules and regulations, not contrary to the laws of the United States, or of this commonwealth, as may from time to time be directed in general meeting: *Provided,* That one half of the whole number of shares of the stock of said company shall be subscribed for, and held *bona fide* by others than the present proprietors aforesaid.

2. *Be it further enacted,* That the capital stock of said company, consisting of the real and personal estate aforesaid, shall be divided into two hundred and forty shares of five hundred dollars

Books for subscriptions where and by whom to be opened.

First general meeting.

Proprietors to present statement of property to be conveyed.

When conveyance to be made.

Annual general meeting, when and where.

Ratio of votes.

President and directors, how and when chosen.

each, making in the whole one hundred and twenty thousand dollars, with the privilege of increasing the same to one hundred and fifty thousand dollars, by the addition of sixty other shares of five hundred dollars each. And that books for receiving subscriptions of stock shall be opened under the direction of the following named commissioners, or any three of them, to wit: Richard Anderson, Efford Bentley, Fleming James, Thomas H. Drew, James H. Lynch, Charles Ellis and James Bosher, at such time and place or places, as they may designate. And so soon as the full amount of the sum first aforesaid shall have been subscribed, and one half of the shares having been taken by *bona fide* subscribers other than the said proprietors, the said commissioners shall call a meeting of the subscribers, giving at least ten days notice of the time and place thereof, by publication in one or more newspapers printed in the city of Richmond; and if a sufficient number of stockholders do not attend on the day, and at the place appointed, to constitute a general meeting, the meeting shall stand adjourned from day to day, until a sufficient number shall be present.

3. *Be it further enacted,* That the said Abner Robinson and Isham Puckett shall, at or before the opening of the books of subscription for the shares in the stock of the said company, and before any subscription shall have been made, enter upon the books of subscription a statement from under their hands and seals, containing a minute specification of the said property and improvements, fixtures and furniture, appendages, rights and privileges incident to and forming part and parcel thereof, intended to be by them conveyed to the said company. And so soon as the whole number of shares shall have been subscribed for, the said Abner Robinson and Isham Puckett shall convey and assure to the said company a valid and perfect title in fee simple, to the aforesaid property, free from all incumbrances, according to the specifications and descriptions thereof, as contained in the statement entered on the books of subscription aforesaid, and also deliver to the said company the possession of the same when demanded; and thereupon the said property conveyed to the said company shall be thenceforth vested in the said company, and constitute its capital stock.

4. *Be it further enacted,* That a general meeting of the said company shall be held annually on the first Wednesday in May at the Eagle hotel in the city of Richmond; and the presence of a majority of the stockholders in interest in person or by proxy shall be necessary to the transaction of business at such meeting, as well as at any other general meeting of the stockholders (or subscribers as in the first instance) required by this act, but a smaller number may adjourn from time to time. In general meetings of said company the stockholders shall be entitled to one vote for every share owned by them respectively, up to the number of five, inclusive, and one more vote for every two additional shares, and may appear and vote on all questions in person or by proxy.

5. *Be it further enacted,* That for managing the affairs of said company, there shall be chosen at the first general meeting, and annually thereafter at the general meetings of the company, not less than five nor more than seven directors, who shall be stockholders of the company, and shall remain in office one year, or until their successors are appointed. The said directors (a majority of whom shall form a quorum for the transaction of business) may choose a

president, and in his absence, a president *pro tempore*. They shall have power to supply vacancies in their own body; to call special meetings of the stockholders; to appoint all such officers, agents, clerks and servants as the stockholders in general meeting shall authorize; and to take bonds with sufficient surety for the good conduct, fidelity and attention of such officers, agents, clerks and servants, and to allow them such compensation for their services as they may deem proper, and to contract and agree with a landlord or other person for the lease or occupancy of the said hotel; but no such contract or agreement shall be for a longer term than five years, except with the assent of a majority of the votes of the stockholders previously expressed in general meeting; and to do all other acts and things touching the affairs of the company, and not otherwise provided for, but within the powers by this act conferred.

Nothing herein contained shall be construed to exempt the said hotel, and owners of stock in the company hereby created, and the keeper or keepers, visitors and guests thereof, from being subject to all laws now in force, or hereafter enacted, concerning ordinaries and houses of public entertainment in this commonwealth.

Company, &c.
*subject to acts
regulating ordi-
naries.*

Dividends of the nett profits of the said company shall be made at such times as shall be determined by the stockholders in general meeting:

Provided, That at no time shall the profits accumulate to an amount of more than fifteen per centum of the capital stock, and remain so accumulated for more than six months; and that no dividend shall be made of any part of the capital stock of said company, under the pretence of making a dividend of the profits, or otherwise, and that the surplus only of the property, effects and debts due the company, above the capital stock, responsibilities and debts due from it, shall be regarded as profits: *And provided also*, That no power shall be vested in a majority of the said company to apply to any other object or purpose than is hereby authorized, any of the capital stock of the said company.

6. Be it further enacted, That the stock of said company shall be deemed personal estate, and pass as such to the representatives of each stockholder, and may be transferred and assigned on the books of said company, and certificates thereof issued in such manner and form as the president and directors, or the stockholders in general meeting shall from time to time direct: *Provided*, That nothing herein contained shall be so construed as to prevent the said company from selling and conveying any part of such real estate as they may hold, and which may be hereby incorporated into stock, and declared personal estate, or to authorize the conveyance of such real estate, when sold or disposed of, in any other manner than that prescribed by the laws of this commonwealth for the conveyance or disposal of real estate, and when so sold and conveyed, from being considered real estate.

*Stock deemed per-
sonal estate, and
transferrable.*

7. Be it further enacted, That if any subscriber or stockholder shall fail to pay the amount due on the stock for which he has subscribed, or of which he has become the owner, or any instalment thereof, at the time prescribed by the president and directors, it shall be lawful for the company to receive from the delinquent, or his or her representative or representatives, the amount which may be so due, by action of debt in any court of record in this commonwealth, and such delinquent shall receive no dividend until the amount of subscription shall have been paid, together with the in-

*Remedy against
delinquent stock-
holders.*

terest which shall have accrued thereon, from the time at which payment should have been made.

Charter when forfeited. 8. *Be it further enacted,* That whenever the capital stock of said company shall be concentrated by purchase or otherwise, in the hands of less than ten members of said company, all the corporate privileges hereby granted shall cease and determine, and the said hotel, its lands and other property, shall be transferred in like manner as other lands and property are held and transferred in this commonwealth.

Property liable for debts. 9. *Be it further enacted,* That the lands, houses, and all other property of the said hotel company, shall be liable for the debts of said corporation. And it shall be lawful for the president and directors to effect assurance on the said hotel, or any other house or property that may belong to said corporation.

Mortgages on property void. 10. *And be it further enacted,* That it shall not be lawful for said company to convey the real or personal estate which they are hereby empowered to hold, by mortgage, deed of trust, or otherwise, to secure any debt which they may contract; and if any such conveyance shall be made, the same shall be void and of no effect, and this charter shall thereby be forfeited; and it shall be lawful for any creditors of the said company to institute suits in chancery, and the court shall have power, and is required to decree a sale of the estate of the company, real and personal, for the payment of their debts.

How set aside. 11. *And be it further enacted,* That this act shall at all times be subject to be amended, modified or repealed, as the general assembly shall think proper.

Commencement. 12. This act shall commence and be in force from and after the passing thereof.

CHAP. 251.—An ACT to incorporate the Madison hotel company in the city of Richmond.

(Passed April 4, 1838.)

Madison hotel company incorporated. 1. *Be it enacted by the general assembly,* That Churchill A. Hodges, and such other persons as may be associated with him, shall be, and they are hereby incorporated and made a body politic and corporate, under the name and style of "The Madison hotel company," for the purpose of erecting buildings and making all the other necessary arrangements for the accommodation of travellers, and other visitors, upon certain property owned by him in the city of Richmond, and known as "The Swan tavern;" and they are hereby invested with all the rights, powers and privileges (so far as they apply to the purposes aforesaid) conferred on bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and are made subject to all the restrictions, regulations and limitations contained in the said act.

Capital. 2. *Be it further enacted,* That the capital stock of said company shall not be less than twenty-five thousand dollars, nor more than seventy-five thousand dollars, to be raised by subscription in shares of fifty dollars each; for which purpose books of subscription may be opened under the superintendence of the said Churchill A. Hodges, Mann S. Valentine, William H. Johnson and George P. Crump, or any two of them, in conformity with the rules prescribed by the act herein before recited.

Rights, powers and liabilities.

Acts 1836-7, pp. 74-79.

Capital.

Books for subscription.

3. *Be it further enacted,* That the said company shall have the ~~real estate~~ right to purchase and hold land, not exceeding one hundred acres, near the city of Richmond.

4. *Be it further enacted,* That whenever the capital stock of said company shall be concentrated, by purchase or otherwise, in the hands of less than ten members of said company, all the corporate privileges hereby granted shall cease and determine; and the said hotel, its lands and other property, shall be transferred in like manner as other lands and property are held and transferred in this commonwealth.

5. *Be it further enacted,* That the lands, houses and all other property of the said hotel company, shall be liable for the debts of said corporation. And it shall be lawful for the president and directors to effect insurance on the said hotel, or any other house or property that may belong to said corporation.

6. *And be it further enacted,* That it shall not be lawful for said company to convey the real or personal estate which they are hereby empowered to hold, by mortgage, deed of trust or otherwise, to secure any debt which they may contract; and if any such conveyance shall be made, the same shall be void and of no effect, and this charter shall thereby be forfeited; and it shall be lawful for any creditors of said company to institute suits in chancery, and the court shall have power and is required to decree a sale of the estate of the company, real and personal, for the payment of their debts.

7. *And be it further enacted,* That this act shall at all times be subject to be amended, modified or repealed, as the general assembly shall think proper.

8. This act shall be in force from its passage.

Commencement.

CHAP. 252.—An ACT to incorporate the Middlesex marl and lime exporting company.

(Passed March 22, 1838.)

1. *Be it enacted by the general assembly,* That Dormer Oaks, Thomas Baltzell and Philip Baltzell, and such other persons as may hereafter be associated with them, be, and they are hereby incorporated and made a body politic and corporate, under the name and style of "The Middlesex marl and lime exporting company," for the purpose of furnishing the agricultural community the means of enriching their lands with calcareous manures in the form of the richest class of marl, in the county of Middlesex; and they are hereby invested with all the rights, powers and privileges conferred on such bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and are made subject to the regulations and restrictions prescribed by said act.

2. *Be it further enacted,* That the capital stock of said company shall not be less than twenty thousand dollars, nor more than one hundred thousand dollars, to be divided into shares of fifty dollars each, and to be raised by subscription, for which purpose books may be opened by the aforesaid Dormer Oaks, Thomas Baltzell and Philip Baltzell, at such time and places as they may deem most advisable, in conformity with the rules prescribed by the above recited act.

Real estate.

3. Be it further enacted, That the said company shall have the right to purchase and hold land, not exceeding one thousand acres, in the county of Middlesex.

Commencement.

4. This act shall be in force from the passing thereof.

CHAP. 253.—An ACT to incorporate the Brenttown mining company.

(Passed March 24, 1838.)

Brenttown mining company incorporated.

1. Be it enacted by the general assembly, That Robert Hord, together with such other persons as may hereafter be associated with him, shall be, and they are hereby incorporated and made a body politic and corporate, by the name and style of "The Brenttown mining company," for the purpose of mining for the sulphate of barytes, in the county of Prince William; and they are hereby invested with all the rights, powers and privileges conferred on such bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and they are hereby made subject to all the regulations and restrictions prescribed by said act.

Capital.

2. Be it further enacted, That the capital stock of said company shall not be less than twenty thousand dollars, nor more than eighty thousand dollars, to be raised by subscription in shares of fifty dollars each; for which purpose books may be opened under the superintendence of John Gibson, Thomas Nelson, John W. Tyler, John P. Philips, Thomas Lawson, John G. Mosby and Lewis Hill, in conformity with the rules prescribed by the above recited act.

Real estate.

3. Be it further enacted, That said company shall have the right to purchase and hold land, not exceeding two thousand acres, in the county of Prince William.

Commencement.

4. This act shall be in force from the passing thereof.

CHAP. 254.—An ACT incorporating the Carrollton exploring and mining association.

(Passed April 5, 1838.)

Carrollton exploring and mining association incorporated.

1. Be it enacted by the general assembly, That Christian Kemp, William H. Smith, J. Augustus Johnson, Philip M'Gaughen, William Lakin, William Clarke, Peter Souder, O. M. Linthicum, Sebastian Reansberg, junior, Manadier Mason, H. S. Batt, Richard Caton, Thomas Robinson, Roseby Carr, James Finney, L. Roderick, John Hann and William R. King, and such other persons as may hereafter be associated with them, shall be, and they are hereby made a body politic and corporate, under the name and style of "The Carrollton exploring and mining association," for the purpose of exploring and mining for coal, ores, fossils and other minerals, in the counties of Loudoun and Fairfax; and they are hereby invested with all the rights, powers and privileges conferred on such bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed the thirteenth day of February, eighteen hundred and thirty-seven, and made subject to the restrictions and regulations prescribed by said act.

Rights, powers and liabilities.

Acts 1836 7, pp. 74-79.

2. Be it further enacted, That the capital stock of the said company shall not be less than ten thousand nor more than one hundred thousand dollars, to be divided into shares of one hundred

Capital.

dollars each; and the said company shall have the right to purchase and hold land, not exceeding five thousand acres, in the said counties of Loudoun and Fairfax.

3. This act shall be in force from its passage.

Commencement.

CHAP. 255.—An ACT to incorporate the Lee mining company.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That William Irvine Lee mining company incorporated. and Walker Smith, and such other persons as may be hereafter associated with them, shall be, and are hereby incorporated and made a body politic, by the name and style of "The Lee mining company," for the purpose of mining for and working gold and other minerals, and they are hereby invested with all the rights, privileges and powers contained in the act prescribing general regulations for the incorporation of manufacturing and mining companies, ^{Acts 1836-7, pp. 74-79.} passed February the thirteenth, eighteen hundred and thirty-seven: *Provided,* That the said company, at no time, shall hold more than one thousand acres of land, nor shall said company hold real estate in any other county than Stafford, Culpeper, Fauquier and Spotsylvania.

2. *And be it further enacted,* That the capital stock of said company shall not be less than ten thousand dollars nor more than one hundred thousand dollars, and shall be divided into shares of one hundred dollars each.

3. This act shall be in force from its passage.

Commencement.

CHAP. 256.—An ACT to incorporate the Hanover and Henrico exploring and mining company.

(Passed March 7, 1838.)

1. *Be it enacted by the general assembly,* That Joseph M. Shepard, William D. Winston, Henry Robinson, Richard F. Barricott, William L. White, Francis Blount and Edmund Winston, and such other persons as may be hereafter associated with them, shall be, and they are hereby incorporated and made a body politic and corporate, under the name and style of "The Hanover and Henrico exploring company," for the purpose of exploring and mining for coal, iron ore and other minerals, in the counties of Hanover and Henrico; and they are invested with all the rights, privileges and powers conferred on such bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," ^{Acts 1836-7, pp. 74-79.} passed February the thirteenth, eighteen hundred and thirty-seven, and made subject to the restrictions and regulations prescribed by said act.

2. *Be it further enacted,* That the capital stock of said company shall not be less than fifty thousand dollars, nor more than five hundred thousand dollars, to be divided into shares of one hundred dollars each; and the said company shall have the right to purchase and hold land, not exceeding two thousand acres, in the counties of Hanover and Henrico.

3. This act shall be in force from its passage.

Commencement.

CHAP. 257.—An ACT to incorporate the Hudson mining company.

(Passed April 4, 1838.)

Hudson mining company incorporated.**Rights, powers and liabilities.****Acts 1836-7, pp. 74-79.****Capital.****Real estate.****Commencement.**

1. Be it enacted by the general assembly, That Robert Hudson, and such other persons as may hereafter be associated with him, shall be, and they are hereby incorporated and made a body politic and corporate, under the name and style of "The Hudson mining company," for the purpose of mining for copper and other minerals in the county of Culpeper; and they are hereby invested with all the rights, powers and privileges conferred on such bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and are made subject to the restrictions and regulations prescribed by said act.

2. Be it further enacted, That the capital stock of said company shall not be less than fifty thousand, nor more than one hundred and fifty thousand dollars, to be divided into shares of fifty dollars each; and said company shall have the right to purchase and hold land, not exceeding one thousand acres, in the said county of Culpeper.

3. This act shall be in force from its passage.

CHAP. 258.—An ACT to change the name and increase the capital stock of the Parson's coal mining and iron manufacturing company.

(Passed March 3, 1838.)

Power to increase capital.

1. Be it enacted by the general assembly, That it shall be lawful for the Parson's coal mining and iron manufacturing company to increase their capital stock six hundred thousand dollars over and above the present capital stock of said company, so that the capital stock of said company shall not be less than fifty thousand, nor more than one million one hundred thousand dollars, to be divided into shares of one hundred dollars each.

Name of company changed.**Rights, powers and liabilities.**

2. Be it further enacted, That the "Parson's coal mining and iron manufacturing company," shall hereafter be called and known by the name of "The Huguenot coal mining and iron manufacturing company;" and the said company, under the name of the Huguenot coal mining and iron manufacturing company, shall possess all the rights, privileges, powers and immunities now conferred, and be subject to all the liabilities, duties and restrictions imposed by law upon "The Parson's coal mining and iron manufacturing company;" and all contracts that have been made by or for the benefit of the Parson's coal mining and iron manufacturing company shall bind and enure to the benefit of the Huguenot coal mining and iron manufacturing company, in all respects as fully and completely as if the name of said company had remained unaltered; and suits upon all such contracts may be instituted by or against the company by their corporate name herein prescribed.

Commencement.

3. This act shall be in force from its passage.

CHAP. 259.—An ACT concerning the Tredegar iron company.

(Passed March 28, 1838.)

Preamble.

Whereas it has been represented to the general assembly, that the Virginia foundry company have subscribed the whole of their property and capital as a part of the capital stock of the Tredegar

iron company, and that the latter company are desirous to be permitted to increase the maximum of their capital:

1. *Be it therefore enacted by the general assembly,* That the union ^{Union of Virginia} of the said Virginia foundry company with the Tredegar company, ^{foundry and Tre-degar companies} be, and the same is hereby declared to be lawful; and that the said ^{legalized.} Tredegar iron company be authorized to increase their ^{Power to augment capital.} capital stock to the sum of five hundred thousand dollars, at such times and in such manner as may be agreed upon by the stockholders in general meeting.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 260.—An ACT incorporating the Virginia copper mining company in the county of Amherst.

(Passed April 4, 1838.)

1. *Be it enacted by the general assembly,* That Henry R. Roby, ^{Virginia copper mining company incorporated.} and such other persons as may be hereafter associated with him, shall be, and they are hereby incorporated and made a body politic and corporate, under the name and style of "The Virginia copper mining company," for the purpose of mining for and manufacturing copper in the county of Amherst, and they are hereby invested with all the rights, privileges and powers conferred on such bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and are made subject to all the restrictions and regulations prescribed by said act.

2. *Be it further enacted,* That the capital stock of the said ^{Capital.} company shall not be less than ten thousand dollars, nor more than one hundred thousand dollars, to be divided into shares of fifty dollars each; and the said company shall have the right to purchase ^{Real estate.} and hold land, not exceeding five hundred acres, in the said county of Amherst.

3. This act shall be in force from its passage.

Commencement.

CHAP. 261.—An ACT incorporating the Virginia mining and manufacturing company.

(Passed April 2, 1838.)

1. *Be it enacted by the general assembly,* That John Sharff, Jacob Sharff, and such other persons as may hereafter be associated with them, shall be, and are hereby incorporated and made a body politic and corporate, by the name and style of "The Virginia mining and manufacturing company," for the purpose of mining for coal and other minerals in the counties of Berkeley and Morgan, and of transporting the same to market. The said company are hereby invested with all the rights, privileges and powers, and made subject to all the restrictions and regulations prescribed by the act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven. The capital stock of said company shall not be less than ten thousand nor more than one hundred thousand dollars, to be divided into shares of one hundred dollars each; and said company shall have the right to purchase and hold land, not exceeding ten thousand acres, in the counties of Berkeley and Morgan.

^{Virginia mining and manufacturing company incorporated.}

^{Rights, powers and liabilities.}

^{Acts 1836-7, pp. 74-79.}

^{Capital.}

^{Real estate.}

Power to construct rail-road.

Rights and powers therefor.

Acts 1836-7,
pp. 101-112.

Commencement.

2. Be it further enacted, That the said company be, and are hereby authorized to construct a rail-road from their said mines to some suitable point on the Potomac river; and for such purpose, the said company, and the president and directors thereof, are hereby invested with all the rights and powers, and made subject to all the restrictions and penalties prescribed by the act, entitled, "an act prescribing certain general regulations for the incorporation of railroad companies," passed March the eleventh, eighteen hundred and thirty-seven.

3. This act shall be in force from its passage.

CHAP. 262.—An ACT to incorporate the Buchanan manufacturing company.

[Passed March 3, 1838.]

Buchanan manufacturing company incorporated.

Rights, powers and liabilities.

Acts 1836-7,
pp. 74-79.

Capital.

Books for subscriptions.

Real estate.

Commencement.

1. Be it enacted by the general assembly, That John Timberlake and Jesse A. Strange, and such other persons as may be hereafter associated with them, shall be, and they are hereby incorporated and made a body politic and corporate, under the name and style of "The Buchanan manufacturing company," for the purpose of manufacturing cotton, wool and iron; and they are hereby invested with all the rights and privileges and powers conferred on such bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and are made subject to the restrictions and regulations prescribed by said act.

2. Be it further enacted, That the capital stock of said company shall not be less than thirty thousand dollars, nor more than one hundred thousand dollars, to be raised by subscriptions in shares of fifty dollars each; for which purpose, books may be opened under the superintendence of Allen B. Magruder, Jesse A. Strange and John S. Wilson, at Buchanan; at Fincastle, under the superintendence of Mathew W. Pettigrew, Henry W. Bowyer and Thomas Godwin; at Big Lick, under the superintendence of Frederick Johnston, Edward Watts and James M'Clannahan; and at Salem, under the superintendence of J. F. J. White, William C. Bowyer and William C. Williams, in conformity with the rules prescribed by the above recited act.

3. Be it further enacted, That the said company shall have the right to purchase and hold land, not exceeding two hundred acres, in the vicinity of said manufactory.

4. This act shall be in force from its passage.

CHAP. 263.—An ACT to incorporate the Burlington manufacturing company, and to amend the charter of the Fleet's manufacturing company.

[Passed March 23, 1838.]

Burlington manufacturing company incorporated.

1. Be it enacted by the general assembly, That Mordecai Barbour, Smith Capron, Robert Shanks, Hugh Doonor, Samuel R. Caldwell, James Lynch, M. Kenney and Joseph Finn, and such other persons as may be hereafter associated with them, shall be, and they are hereby incorporated and made a body politic and corporate, under the name and style of "The Burlington manufacturing company," for the purposes of manufacturing silk, cotton, wool, flax and metals, into any or all of the various articles of which they are capable of being made, in the county of Dinwiddie; and they

are hereby invested with all the rights, powers and privileges conferred on such bodies politic and corporate, by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and are made subject to the regulations and restrictions prescribed by said act.

2. *Be it further enacted,* That the capital stock of said company shall not be less than fifty thousand, nor more than five hundred thousand dollars, to be divided into shares of one hundred dollars each, and to be raised by subscription, for which purpose books may be opened in the town of Petersburg under the superintendence of J. B. Varnum, Geo. Bolling, Dr. J. E. Cox, N. Page, M. Brown, Charles Boswell, Lewis Lunsford, Abel Head and Daniel Lyon, in conformity with the rules prescribed by the above recited act.

3. *Be it further enacted,* That the said company shall have the right to purchase and hold land, not exceeding five hundred acres, in the county of Dinwiddie.

4. *And be it further enacted,* That it shall be lawful for the Fleet's manufacturing company to manufacture cotton, wool, hemp and flax in addition to the other articles mentioned in their charter; and that hereafter, the annual meetings of the company shall be held on the last Monday in April instead of the first Monday in May as now directed.

5. This act shall be in force from its passage.

Commencement.

CHAP. 264.—An ACT to revive and amend an act, entitled, "an act to incorporate the Columbian manufacturing company in the city of Richmond."

(Passed April 3, 1838.)

1. *Be it enacted by the general assembly,* That the act, entitled, "an act to incorporate the Columbian manufacturing company in the city of Richmond," passed March the thirteenth, eighteen hundred and thirty-two, be, and the same is hereby revived, and that the company thereby incorporated shall be changed from Philip Haxall and company, Richard B. Haxall, and others who may have become owners of stock in the said company, to R. B. Haxall, William Williams, W. H. Haxall, and others who may become their associates.

2. *Be it further enacted,* That the capital stock of the said company shall not be less than eighty thousand dollars, nor more than five hundred thousand dollars, and that the shares in said company be changed from five hundred dollars to shares of one hundred dollars each.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 265.—An ACT to incorporate the Cottage iron works company.

(Passed March 21, 1838.)

Whereas Samuel P. Parsons and Samuel S. Saunders have presented to the general assembly, that they have land in the county of Hanover, on which there are indications of a large quantity of iron ore, which they are anxious to explore and work, and to enable them to accomplish their object, they ask of the legislature an act of incorporation: Therefore,

1. *Be it enacted by the general assembly,* That a joint stock company for the purpose of manufacturing pig iron, and if found incorporated.

expedient by the company, also the manufacturing of wrought iron and steel, in all their varieties, in the county of Hanover, under the name and style of "The Cottage iron works," in the county of Hanover; and the company is hereby invested with all the rights, privileges and powers conferred on such associations by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and is made subject to all the restrictions and regulations prescribed by said act.

**Rights, powers
and liabilities.**
Acts 1836-7, pp.
74-79.

Capital.

**Books for sub-
scription.**

Real estate.

Commencement.

2. Be it further enacted, That the capital stock of the said company shall not be less than thirty thousand dollars, with the privilege of increasing the same to an amount not exceeding two hundred and fifty thousand dollars, to be divided into shares of one hundred dollars each, reserving to the first subscribers the right to take any additional stock that the stockholders holding a majority of the stock may from time to time order and direct: *Provided*, The maximum capital shall not exceed the said sum of two hundred and fifty thousand dollars; for which purpose books may be opened under the superintendence of Samuel P. Parsons, Samuel S. Saunders, Henry Clarke, William J. Clarke, Nathaniel C. Crenshaw and Charles P. Goodall, or any one or more of them.

3. Be it further enacted, That the said company shall have the right to purchase and hold land, not exceeding six thousand acres, for the purpose of the said manufacture, and for no other purpose whatsoever.

4. This act shall be in force from its passage.

CHAP. 266.—AN ACT to incorporate the Exeter manufacturing company.

(Passed January 17, 1838.)

**Exeter manufac-
turing company
incorporated.**

**Rights, powers
and liabilities.**

Acts 1836-7, pp.
74-79.

Capital.

**Books for sub-
scription.**

**Right to continue
grist mill.**

**Regulations there-
for.**

1. Be it enacted by the general assembly, That a joint stock company for the purpose of manufacturing cotton, wool, hemp, iron, brass and steel, may be established at Exeter mills, on the land of Robert Shanks, in the county of Dinwiddie, under the name and style of "The Exeter manufacturing company," and said company is hereby invested with all the rights, privileges and powers conferred on such associations by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and is made subject to all the restrictions and regulations prescribed by said act.

2. Be it further enacted, That the capital stock of said company shall not be less than twenty thousand dollars, nor more than one hundred thousand dollars, to be raised by subscription in shares of one hundred dollars each; for which purpose, books may be opened under the superintendence of Joseph Bragg, Archibald M'Ilvaine, Joseph Swann, Abel Head, James Lynch, Samuel Caldwell, Robert Ritchie, Robert B. Bolling, and John Bragg, in conformity with the rules prescribed by the above recited act.

3. Be it further enacted, That it shall be lawful for the said company to hold and continue the grist mill at present established on the aforesaid lands; and the company and their miller shall be subject to all the provisions of the laws of this commonwealth, respecting the proprietors of water grist mills, and their millers.

4. *Be it further enacted,* That said company shall have the right Real estate, to purchase and hold land, not exceeding five hundred acres, in the counties of Dinwiddie and Chesterfield.

5. This act shall be in force from the passing thereof.

Commencement.

CHAP. 267.—An ACT establishing a manufacturing company in the town of Falmouth.

[Passed April 6, 1838.]

1. *Be it enacted by the general assembly,* That Duff Green, William Brooke, jr., and John M. O'Bannon, and such other persons incorporated. as may be hereafter associated with them, shall be and they are hereby incorporated, and made a body politic and corporate, under the name and style of "The Falmouth manufacturing company," for the purpose of manufacturing cotton, wool, hemp, flax and silk in the county of Stafford; and they are hereby invested with all Rights, powers and liabilities. the rights, privileges and powers conferred on such bodies politic and corporate by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, one thousand eight hundred and thirty-seven, and are made subject to the restrictions prescribed by said act:

2. *Be it further enacted,* That the capital stock of said company Capital. shall not be less than thirty thousand dollars nor more than one hundred and fifty thousand dollars, to be divided into shares of one hundred dollars each; and the said company shall have the right Real estate. to purchase and hold land not exceeding five hundred acres in the said county of Stafford.

3. This act shall be in force from the passage thereof.

Commencement.

CHAP. 268.—An ACT to incorporate the Mansfield manufacturing company.

[Passed March 9, 1838.]

1. *Be it enacted by the general assembly,* That a joint stock company for the purpose of manufacturing cotton, wool, hemp, iron, brass and steel, may be established at Mansfield mills on the lands of Robert Shanks in the county of Dinwiddie, under the name and style of "The Mansfield manufacturing company," and said company is hereby invested with all the rights, privileges and powers conferred on such associations by an act, entitled, "an act prescribing general regulations for the incorporation of manufacturing and mining companies," passed February the thirteenth, eighteen hundred and thirty-seven, and is made subject to all the restrictions and regulations prescribed by said act.

2. *Be it further enacted,* That the capital stock of said company Capital. shall not be less than twenty thousand dollars, nor more than one hundred thousand dollars, to be raised by subscription in shares of one hundred dollars each; for which purpose books may be Books for subscription. opened under the superintendence of Joseph Bragg, John Dunn, Archibald G. M'Ilvaine, William M. Atkinson, James M'Farland, Charles F. Osborne, Ashton Johnson, Robert Ritchie and Abel Head, in conformity with the rules prescribed by the above recited act.

3. *Be it further enacted,* That it shall be lawful for the said company to hold and continue the grist mill at present established Right to continue grist mill. on the aforesaid lands; and the company and their miller shall be Regulations therefor.

subject to all the provisions of the laws of this commonwealth respecting the proprietors of water grist mills, and their millers.

Real estate. 4. *Be it further enacted,* That said company shall have the right to purchase and hold land, not exceeding five hundred acres, in the counties of Dinwiddie and Chesterfield.

Commencement. 5. This act shall be in force from the passing thereof.

CHAP. 269.—An ACT to amend an act, entitled, “an act incorporating the Virginia mills manufacturing company.”

(Passed March 3, 1838.)

Name of company changed. 1. *Be it enacted by the general assembly,* That the act, entitled, “an act to incorporate the Virginia mills manufacturing company,” be, and the same is hereby so amended, that the said company shall hereafter be known and styled in law by the name of “The Slate river manufacturing company,” and be subject to the conditions imposed by law upon the said Virginia mills manufacturing company.

Right to manufacture slate. 2. *Be it further enacted,* That in addition to the rights and privileges conferred by law upon the aforesaid Virginia mills manufacturing company, the Slate river manufacturing company may and shall have the right to manufacture slate, as well as the other articles specified in the first section of the act incorporating the Virginia mills manufacturing company.

Rules and regulations. Acts 1836-7, pp. 74-79. 3. *Be it further enacted,* That if said company avail itself of the benefit of this act, it shall be subject to all the provisions of the act, entitled, “an act prescribing general regulations for the incorporation of manufacturing and mining companies,” passed February thirteenth, eighteen hundred and thirty-seven, any thing in the act incorporating said company to the contrary notwithstanding.

Commencement. 4. This act shall be in force from its passage.

CHAP. 270.—An ACT to establish the town of Beckley in the county of Fayette.

(Passed April 4, 1838.)

Town of Beckley established. 1. *Be it enacted by the general assembly,* That not exceeding the quantity of thirty acres of land, the property of Alfred Beckley, lying at the forks of the road leading from Pack's ferry on New river, to the Great falls of the Kanawha river, and the road from the forks of Sandy river, by Logan courthouse, in the county of Fayette, so soon as the same shall be laid off into lots, with convenient streets and alleys, shall be and the same is hereby established a town by the name of Beckley.

Trustees. 2. *Be it further enacted,* That Alfred Beckley, Clarkson Prince, William Prince, John Bailey and Richard M'Vey, gentlemen, be, and they are hereby appointed trustees thereof, who shall, before they enter upon the duties of their appointment, as also their successors in office, take an oath or solemn affirmation before some justice of the peace for the county of Fayette, to execute the same faithfully and impartially, according to the best of their skill and judgment.

Oath of office. 3. *Be it further enacted,* That the trustees of said town, or a majority of them, shall, as soon as convenient, cause the said town to be laid off into lots, streets and alleys, and may for that purpose employ some competent surveyor. The said trustees, or a majority of them, shall, so soon as the said town shall have been laid off in

Town to be laid off.

manner aforesaid, cause a plat or drawing of the plan thereof to be made, with such remarks and explanations thereon, or thereto annexed, in writing, as they may deem necessary and proper, and shall place the same in the office of the clerk of the county court of Fayette county, and the clerk of said court shall enter the same of record, and preserve the original in his office.

4. *Be it further enacted*, That the trustees of said town, or a majority of them, shall be and they are hereby empowered to make such by-laws, rules and regulations, for the well ordering of the police thereof, removing or abating nuisances, and for the regular building of houses therein, as to them shall seem best, and the same to amend or repeal, or to enforce by reasonable fines, not exceeding in any one offence the sum of five dollars, recoverable with costs before any justice of the peace of the county of Fayette: *Provided however*, That such by-laws, rules and regulations, shall not be repugnant to, or inconsistent with the constitution and laws of the United States, or of this commonwealth.

5. *Be it further enacted*, That in order to afford the citizens of said town at all times an opportunity of knowing the proceedings of said trustees, there shall be provided books, as they become necessary, from time to time, in which shall be recorded the several certificates of the qualification of said trustees, and their successors in office, and all their by-laws, rules and regulations, and other proceedings, which book or books shall be always kept in said town, and accessible at all times to the inspection of the citizens thereof, and others who may have or feel an interest in the affairs of said town.

6. *Be it further enacted*, That so much of the act, entitled, "an act to reduce into one act the several acts and parts of acts concerning the office of trustees or directors of the several towns within this commonwealth, and for supplying vacancies in the same," passed the second day of March, eighteen hundred and nineteen, as is of a public and general nature, shall be regarded as the law in relation to the said town of Beckley hereby established.

7. This act shall be in force from the passing thereof.

Commencement.

CHAP. 271.—An ACT to establish the town of Damascus in the county of Marshall.

(Passed February 6, 1839.)

1. *Be it enacted by the general assembly*, That not exceeding the quantity of forty acres of land, the property of Luke Griffith, lying on Big Wheeling creek, in the county of Marshall, about twelve miles east of the city of Wheeling, in the county of Ohio, on the route of the Baltimore and Ohio rail-road as now located, so soon as the same shall be laid off into lots with convenient streets and alleys, shall be, and the same is hereby established a town by the name of Damascus.

2. *Be it further enacted*, That James Ewing, senior, Thomas Buckhannan, Thomas M'Creary, John Scott, senior, Jefferson T. Martin, Jacob Sever and John Reed, gentlemen, be, and they are hereby appointed trustees thereof, who shall, as also their successors in office, before they enter upon the duties of their appointment, take an oath, or make solemn affirmation, before some justice of the peace for the county of Marshall or Ohio, to execute the same faithfully and impartially, according to the best of their skill and judgment; a majority of whom shall form a quorum to proceed to business under the authority of this act.

Regulations of general law applicable
2 R. D. 1819, p.
319.

Town to be laid off.

3. *Be it further enacted*, That the trustees of said town, or a majority of them, shall, so soon as convenient, under their direct superintendence, cause the said land to be laid off into lots, streets and alleys, and may for that purpose employ a competent surveyor.

Power to make by-laws.

4. *Be it further enacted*, That the trustees of said town, or a majority of them, shall be, and they are hereby empowered to make such by-laws, rules and regulations for the well ordering of the police thereof, removing or abating nuisances, and for the regular building of houses therein, as to them shall seem best, and the same to amend or repeal: *Provided*, That such by-laws, rules and regulations shall not be repugnant to, or inconsistent with the constitution and laws of the United States, or of this commonwealth.

Record of proceedings to be kept.

5. *Be it further enacted*, That in order to afford the citizens of said town, at all times, an opportunity of knowing the proceedings of said trustees, there shall be provided books as they become necessary from time to time, at the expense of the owner of said land, in which shall be recorded the several certificates of the qualification of the said trustees, and their successors in office, and all their by-laws, rules and regulations, and other proceedings; which book or books shall be always kept in said town, and accessible at all times to the inspection of the citizens thereof, and others who may have or feel an interest in the affairs of said town.

Regulations of general law applicable
2 R. C. 1819, pp.
319, 330.

6. *Be it further enacted*, That so much of the act, entitled, "an act to reduce into one act all acts and parts of acts concerning the office of trustees or directors of the several towns within this commonwealth, and for supplying vacancies in the same," passed the second day of March, eighteen hundred and nineteen, as is of a public and general nature, shall be regarded as the law in relation to the said town of Damascus hereby established.

Commencement.

7. This act shall be in force from and after the passing thereof.

CHAP. 272.—An ACT to provide for the opening of cross streets and alleys in the town of Danville in the county of Pittsylvania.

(Passed April 5, 1838.)

Cross streets, how to be opened.

1. *Be it enacted by the general assembly*, That it shall be lawful for the mayor and commonalty of the town of Danville, in the county of Pittsylvania, to appoint seven discreet and fit persons as commissioners, any five of whom may act, whose duty it shall be to ascertain upon the best information they can obtain, in which parts of the said town of Danville it is most proper and convenient to lay off and open cross streets and alleys for said town; and also what ought to be the width and extent of such cross streets and alleys; and having so ascertained, shall make report to said mayor and commonalty in writing, distinctly designating the places at which it is most proper and convenient for said town generally to lay off and open cross streets and alleys. And if the said mayor and commonalty concur in such report, they shall cause the same to be entered of record in their proceedings, and thereupon may make an order requiring such cross streets and alleys to be surveyed and opened by the commissioners aforesaid, or any five of them; and such cross streets and alleys so located, surveyed and opened shall be, and they are hereby established as public streets and alleys of said town. But if the said mayor and commonalty shall not concur in such report made as aforesaid, it shall be competent for them to direct the said commissioners, or any five of them, to

know their attempts, and make other or corrected locations for such streets and alleys until the same be approved by the said mayor and commonalty.

2. Be it further enacted, That should there be any person or persons owning land within said town, who are unwilling voluntarily to yield and convey to the mayor and commonalty of said town so much of their land or lots as may be necessary for the location of such streets or alleys, and in such manner as shall be safe for the interests of said town, and satisfactory to the said mayor and commonalty, it shall and may be lawful for the said mayor and commonalty to contract and agree with such owner or owners of any land, lot or lots through which such street or alley may pass, for so much thereof as may be necessary to form the same; and in case they cannot agree, or in case it shall be necessary to pass such street in its location between, along or through any lot or lots belonging to, or owned by any infant, *feme covert*, persons *non compos mentis*, imprisoned or not within this commonwealth, or to any person disabled by law in any other manner to consent, or to any person or persons unwilling to consent to part with the same, or so much thereof as may be necessary for the purposes aforesaid, it shall be the duty of the county court of the county of Pittsylvania, upon application in that behalf to issue a writ in the nature of a writ of *ad quod damnum*, directed to the sergeant of the town of Danville, commanding him to summon twelve discreet and impartial men, freeholders and not related to any party having an interest in the land, lot or lots, who shall be a jury, to meet upon the premises, and who shall be sworn by a justice of the peace for the county of Pittsylvania, or an alderman of the town of Danville, true enquiry to make according to the best of their skill and judgment, and who shall also be charged by the said sergeant as to the nature of their enquiry, and that they shall faithfully and impartially ascertain the value of the land so proposed to be taken for the location of such street or alley, and the damages which the owner of such land, lot or lots will sustain by reason of the location of such street or alley, in manner aforesaid; and in estimating the damages shall consider also the advantages which may accrue to such owner of the land, lot or lots, in point of his or their increased convenience or otherwise, as the multiplication of front to his or her lot or lots, in having such street or alley opened. And the proceedings upon the issuing, execution and return of said writ or writs, as the case may be, shall be in like manner in every respect, or to that effect, as is prescribed by law for such writs in similar cases.

3. Be it further enacted, That for the purpose of raising a fund out of which to pay for any land, part or parts of any lot or lots which may not be yielded by the owner thereof, for the use of said town, without claim or demand therefor, and for the payment of any other expenses necessarily incurred in laying off and opening such cross streets and alleys, it shall be lawful for the mayor and commonalty of said town to levy and collect a tax on the inhabitants thereof, in such manner and time, and upon such subjects of taxation, as they may deem best and most suitable for such purpose: *Provided, however,* That it shall be lawful for the said mayor and commonalty, and it shall moreover be their duty, in making any order authorizing the said commissioners, or any three of them, to lay off and open cross streets and alleys at the places of the

Power to contract
for land to locate
streets.

When and how
buildings in streets
may be removed.

width and extent designated in such report recorded as aforesaid, to provide against the removal of any house or building which may now be erected on any part of the land or lots through or along which the said cross streets and alleys, or any of them, may be laid off, until such house or building shall be removed by the proprietor or with his or her consent, or shall not be worth, or shall so decay as not to be worth, in the opinion of said commissioners, or any five of them, more than one hundred dollars.

Commencement.

4. This act shall be in force from its passage.

CHAP. 273.—An ACT to provide for the keeping in repair by the inhabitants of Lexington a portion of the county roads leading from said town.

(Passed April 3, 1838.)

Streets in Lexington how to be opened and repaired.

When inhabitants to be allotted to work on roads.

1. *Be it enacted by the general assembly,* That the town of Lexington in the county of Rockbridge, shall hereafter be deemed and taken to be a component part of the county aforesaid, for all the purposes of opening and keeping in repair the public roads thereof, its own streets being regarded as portions of said roads, and said town shall be and is hereby made liable, in manner and extent, for the purposes aforesaid, as other portions of said county are now, or hereafter shall be, made liable by law, any act or part of an act heretofore passed to the contrary notwithstanding: *Provided however,* That it shall be lawful for the county court of said county (all the acting justices being first summoned for the purpose, and a majority of those present concurring,) to allot to the town of Lexington, from time to time, and in discharge of all liabilities for the purposes aforesaid, the repair of the streets in said town, and in addition thereto, the opening or keeping up of such portions of the contiguous public roads as shall, in the judgment of said court, impose upon the tithables and property in said town a fair and rateable share of the burthen imposed by law upon the tithables and property of the county.

Commencement.

2. This act shall be in force from its passage.

CHAP. 274.—An ACT to amend the act entitled, “an act to establish the town of Lovettsville.”

(Passed April 2, 1838.)

Misrecital of the name of person whose property is added to town, corrected.

Commencement.

1. *Be it enacted by the general assembly,* That in lieu of the name of Daniel Lovett, inserted in the first section of the act, entitled, “an act to establish the town of Lovettsville,” passed March the fifteenth, eighteen hundred and thirty-six, the name of David Lovett shall be substituted.

2. This act shall be in force from the passing thereof.

CHAP. 275.—An ACT establishing the town of Lumberport in the county of Harrison.

(Passed April 3, 1838.)

Town of Lumberport established.

Trustees.

1. *Be it enacted by the general assembly,* That not exceeding ten acres of land, the property of James Y. Horner and David Robinson, lying on Ten Mile creek, near Robinson’s mill, in the county of Harrison, so soon as the same shall be laid off into lots with convenient streets and alleys, shall be and the same is hereby established a town by the name of “Lumberport.”

2. *Be it further enacted,* That Caleb Rogers, Benjamin Wood, James S. Griffin, Thomas Robinson and Jacob Martin, be, and they

are hereby appointed trustees of the said town, who shall, as also their successors in office, before they enter upon the duties of their appointment, respectively take an oath, or make solemn affirmation, before some justice of the peace for the county of Harrison, to execute the same faithfully and impartially, to the best of their skill and judgment, a majority of whom may form a quorum to proceed to business under the authority of this act.

3. *Be it further enacted*, That it shall be the duty of the trustees of said town, or a majority of them, so soon as convenient, under their own superintendence, to cause the said ten acres of land to be laid off ~~into~~ lots with convenient streets, cross and back streets and alleys, and shall mark with convenient and lasting signs the divisions, metes and bounds, the relative situation and distances, width and depth, of the said lots and streets, cross and back streets and alleys of said town, and for that purpose may employ a competent surveyor. The said trustees, or a majority of them, so soon as the said town shall have been laid off in manner aforesaid, cause a plat or drawing of the plan thereof to be made with such remarks and explanations thereon in writing, as they may deem necessary and proper, and shall place the same in the clerk's office of the county of Harrison. The clerk of said county shall enter the same of record, and preserve the original in his office.

4. *Be it further enacted*, That the trustees of said town, or a majority of them, shall be, and they are hereby empowered, to make such by-laws and ordinances for regulating the police thereof, and for the regular building of houses therein, as to them shall seem best, and the same to enforce by reasonable fines, not exceeding in any one offence the sum of five dollars, recoverable with costs before any justice of the peace of the county of Harrison; and also to amend or repeal the same as occasion may require: *Provided however*, That such by-laws and ordinances shall not be repugnant to, nor inconsistent with the constitution and laws of the United States, or of this commonwealth.

5. *Be it further enacted*, That the trustees of said town, or a majority of them, shall have power to remove or abate nuisances, or cause the same to be removed at the expense of those who occasion them; to improve and repair the public streets and alleys; to prevent and punish, by reasonable fines, recoverable as aforesaid, the practice of firing guns and running horses in said town; to license and regulate shows and other public exhibitions; to appoint all such officers as may be necessary to regulate the affairs of said town, not herein provided for, and to allow them such compensation as they may deem reasonable; and to do, or cause to be done, all other things necessary and proper for the general good of said town, within the powers conferred by this act.

6. *Be it further enacted*, That in order to afford the citizens of said town, at all times, an opportunity of knowing the proceedings of said trustees, there shall be provided by said trustees a well bound book or books, as they become necessary, in which shall be recorded in a plain handwriting, the several certificates of the qualifications of said trustees, before a justice of the peace as aforesaid, (and any justice of the peace administering such oath, is hereby requested to grant such certificate,) all their by-laws, ordinances and other proceedings, which book or books shall be kept in said town, and be at all times accessible for the inspection of the citizens.

thereof, and all others concerned in, or having an interest in the affairs of said town.

Vacancies among trustees supplied.

S. R. C. 1819, pp. 319, 330.

7. Be it further enacted, That for the purpose of supplying vacancies in the office of trustees of the said town of Lumberport hereby established, so much of the act, entitled, "an act to reduce into one act all acts and parts-of acts concerning the office of trustee or directors of the several towns within this commonwealth, and for supplying vacancies in the same," as is of a public and general nature, shall be regarded as the law in relation to the town of Lumberport hereby established.

Commencement.

8. This act shall be in force from its passage.

CHAP. 276.—An ACT to establish the town of Martinsville in the county of Tyler.

[Passed March 28, 1888.]

Town of Martinsville established.

1. Be it enacted by the general assembly, That not exceeding fifty acres of land, the property of Presley Martin, lying at the mouth of Fishing creek on the Ohio river in the county of Tyler, so soon as the same shall be laid off into lots with convenient streets and alleys, shall be, and the same is hereby established a town, by the name of "Martinsville."

Trustees.

2. Be it further enacted, That Henry S. McCabe, Samuel Mucedowning, Lewis Williams, John Buchanan and Benjamin F. Martin, gentlemen, shall be, and they are hereby appointed trustees thereof, who shall, before they enter upon the duties of their appointment, take an oath, or make solemn affirmation, (as also their successors in office,) before some justice of the peace for the county of Tyler, to execute the same faithfully and impartially according to the best of their skill and judgment; a majority of whom, or of their successors in office, shall form a quorum to proceed to business under the authority of this act.

Town to be laid off.

3. Be it further enacted, That it shall be the duty of the trustees of said town or a majority of them, so soon as convenient, under their own superintendence, to cause the said fifty acres of land to be laid off into lots, with convenient streets, cross and back streets and alleys, and shall mark with convenient and lasting signs the divisions, metes and bounds, the relative situation and distances of the said lots, streets and alleys of said town, and for that purpose, may employ a surveyor at the expense of the said proprietor of said land, and cause a plat or drawing of the plan of said town to be made, with such remarks and explanations thereon, or thereunto annexed, in writing, as they may deem necessary and proper, and shall place the same in the clerk's office of the county court of Tyler county. The clerk of said court shall enter the same of record and preserve the original in his office.

Power to make by laws.

4. Be it further enacted, That the trustees of said town, or a majority of them, shall be, and they are hereby authorized to make such by-laws and ordinances for regulating the police thereof, and for the regular building of houses therein, as to them shall seem best, and the same to enforce by reasonable fines, not exceeding in any one offence the sum of five dollars, recoverable with costs before any justice of the peace for the county of Tyler, and also to amend or repeal the same as occasion may require: *Provided however,* That such by-laws and ordinances shall not be repugnant to

or inconsistent with the constitution and laws of the United States or of this commonwealth.

5. *Be it further enacted*, That the trustees of said town, or a majority of them, shall have power to remove or abate nuisances, ^{to see.} or cause the same to be done at the expense of those who occasion them; to improve and repair the public streets and alleys; to prevent and punish by reasonable fines, (recoverable as aforesaid,) the practice of firing guns and running horses in said town; to license and regulate shows and other public exhibitions; to appoint all such officers as may be necessary for conducting the affairs of the said town, not herein provided for, and to allow them such compensation as they may deem reasonable, and to do, or cause to be done, all other things necessary and proper for the general good of said town, within the limits of the powers conferred by this act.

6. *Be it further enacted*, That in order to afford the citizens of said town at all times an opportunity of knowing the proceedings of said trustees, there shall be provided by said trustees a well bound book or books, as they become necessary, in which shall be recorded in a plain hand writing the several certificates of the qualification of said trustees before a justice of the peace as aforesaid, (and any justice administering such oath, is hereby required to grant a certificate for the same,) all their by-laws, ordinances and other proceedings, which book or books shall be kept in said town, and be at all times accessible for the inspection of the citizens thereof, and all others concerned in or having an interest in the affairs of said town.

7. *Be it further enacted*, That for the purpose of supplying vacancies in the office of trustee of said town of Martinsville, hereby established, so much of the act, entitled, "an act to reduce into one act all acts and parts of acts concerning the office of trustee or directors of the several towns within this commonwealth, and for supplying vacancies in the same," as is of a public and general nature, shall be regarded as the law in relation to the town of Martinsville hereby established.

8. This act shall be in force from the passing thereof.

Commencement.

CHAP. 277.—An ACT to authorize the conveyance of a certain lot of land in Middletown in the county of Monongalia.

(Passed February 6, 1838.)

Whereas it is represented to the general assembly, by the successors of certain trustees, to whom a certain Boaz Fleming, late of the county of Monongalia, conveyed a lot of land in the town of Middletown in said county, for the purpose of having erected thereon a house as a seminary of learning: and whereas the trustees, (successors aforesaid,) together with the citizens of said town, having preferred another site more suitably situated, have deemed it expedient to sell the lot so conveyed, and with the money and proceeds arising therefrom have purchased another lot more suitable as aforesaid, and have petitioned the general assembly for authority to convey to the purchaser a title to the lot so sold: Therefore,

1. *Be it enacted*, That it shall be lawful for Robert M'Gee, Francis Pierpont and Benjamin Fleming, or any two of them, successors of the original trustees as aforesaid, to convey to Frederick Chister the purchaser, the said lot of land, and shall warrant such

Power to convey lot.

Province.

title as the original trustees had, and could have conveyed, being authorized: *Provided*, The said trustees (successors as aforesaid,) shall faithfully apply the proceeds of the sale of said lot so conveyed by said Boaz Fleming to the payment of such other lot as may have been purchased, more suitable and convenient for the inhabitants of said town, as the site for a school.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 278.—An ACT providing for the election of trustees for the town of Middletown in the county of Monongalia, and prescribing their powers and duties.

[Passed March 23, 1838.]

Trustees when and how elected.

1. *Be it enacted by the general assembly*, That it shall hereafter be the duty of the male housekeepers and freeholders in the town of Middletown in the county of Monongalia, to elect on the first Monday of May annually, *viva voce*, five trustees for said town, which poll shall be taken by any justice of the peace of said county, whose duty it shall be to give a certificate certifying who are elected by the voters qualified as aforesaid, which certificate shall be entered of record in a book in which the records of the acts and doings of said trustees shall be recorded; and it shall be the duty of the person so elected, within ten days, to make oath or solemn affirmation that they will faithfully and impartially discharge the duties of trustees of said town; they shall appoint a president to preside over their deliberations, and such other officers as may be deemed necessary to carry fully into effect the powers hereinafter granted.

Their oath of office.

President and officers appointed.

2. *And be it further enacted*, That the trustees shall have and be authorized to exercise all the powers of other municipal corporations, such as levying taxes for the repairs of the streets, making side walks, regulating the markets removing nuisances, affixing penalties for the violation of such laws, rules and regulations as they may deem fit and proper to adopt for the good order and government of said town: *Provided however*, Such rules, by-laws and regulations shall not conflict with the constitution and laws of this state or of the United States: *And provided further*, That they shall have the same powers in all things relating to the intended regulations of said town, such as the regulating the markets, levying taxes, borrowing money, and providing for the collection of such taxes, together with the same remedies against such collector or collectors as they may appoint, as has been granted to the borough of Morgantown, by an act passed at the present session of the general assembly, as fully as if all the powers vested in the trustees of the borough aforesaid had been incorporated in this act.

Commencement.

3. This act shall be in force from the passing thereof.

CHAP. 279.—An ACT to incorporate Morgantown in the county of Monongalia.

(Passed February 3, 1838.)

Borough of Morgantown incorporated.

1. *Be it enacted by the general assembly*, That the inhabitants of so much of the county of Monongalia as are within the bounds of Morgantown, or that may hereafter reside within the said bounds, shall be, and they are hereby made a body politic and corporate, by the name and style of "The Borough of Morgantown," and as such, and by that name, may contract and be contracted with, sue

Corporate powers.

and be sued, plead and be impleaded, answer and be answered unto, and may purchase, take, receive, hold and use goods and chattels, lands and tenements, and choses in action for the proper use of the said town, and the same may grant, sell, convey, transfer and assign, let, pledge, mortgage, charge or incumber in any case, and in any manner, and may have and use a common seal, and generally shall have all the rights, franchises, capacities and powers appertaining to municipal corporations.

2. Be it further enacted, That it shall be lawful for the male Trustees when
housekeepers, and owners of real estate in-said town, being citizens
of Monongalia county, of the age of twenty-one years and upwards,
annually to meet at the courthouse in said town, on the first Monday in April, and under the superintendence of a magistrate of said county elect, *viva voce*, seven persons as trustees, who shall be free-holders in said town, who shall, before they perform any of the duties required by this act, make oath or affirm, that they will faithfully and impartially perform the duty or duties of trustees to said town; and in case of a refusal to act, resignation or removal from the county, the remaining trustees shall supply such vacancy. The said trustees, or a majority of them, shall be competent to form a board, and appoint a clerk, who shall record annually the certificate of the magistrate certifying the election and qualification of the said trustees, as well as the orders and proceedings, levies, assessments, fines, settlements, ordinances, and by-laws: they shall also appoint a treasurer, who, after executing a bond with security, payable to the said corporation, in such penalty as the said trustees may direct, conditioned well and truly to pay all orders or drafts drawn upon him by order of said trustees, and faithfully account for, and pay all moneys received by him, by virtue of said office; and the trustees of said corporation may at any time, upon thirty days previous notice, before any court or magistrate of said county having jurisdiction, recover against the said treasurer and his securities, or either of them, such sum or sums as may be in the hands of said treasurer, and not paid over agreeably to the order of said board.

3. Be it further enacted, That the said board are hereby authorized to establish within said town, all markets, and regulate the same, and provide suitable buildings therefor; to pass by-laws, and fix the amount of fine for a violation thereof; have power to abate and remove all nuisances at the expense of the owner or occupier of the ground whereon the same shall be; have power to prevent or regulate slaughter houses, or any unhealthy employment in said town; have power to grade and pave the streets and alleys of said town; to prevent the firing of guns, or other combustible matter, or riding or driving any animal at an improper speed in said town; have power to assess, levy and collect annually, on all property according to its value, now or hereafter subject to taxation according to the revenue laws of this commonwealth, such amount of tax as may be deemed proper, not exceeding fifty cents on every hundred dollars value thetoe, and upon exhibitors of any public show, clock or tin pedlars, a sum not exceeding one fourth of the tax paid to the commonwealth, who may exhibit, or trade in said town; shall have power to negotiate, contract or make any loan, not exceeding one thousand dollars in any one year, for the improvement of any of the streets or alleys in said town, and pledge the annual taxes for the redemption of said loan with interest thereon; shall have

Vacancies sup-
plied.
Records of trust-
ees, how pre-
served.

Treasurer to be
appointed.

Powers of trust-
tees.

authority to provide for the weighing or measurement of all hay, wood, lumber, coal or boards offered in the said town for sale; shall have power, management and control of the real and personal estate, revenue, claims, fines and funds belonging to said corporation; shall have power to pass all ordinances and by-laws to carry into full effect the powers hereby granted; shall have power to establish and construct landings, wharves and docks on any ground belonging to said corporation, and rent or lease the same, and establish and collect rates and taxes for using the same; shall have power to purchase ground for new streets or alleys in said town; and shall have authority to sell and convey the ground now occupied by such street or alley in said town as may be dispensed with by the establishment of such new street or streets and alleys, and to receive any conveyance for any ground over which any street, alley, landing or wharf shall be made; shall have authority to ordain and enforce regulations to prevent or guard against accidents by fire; shall have authority to prevent hogs, dogs or other animals from running at large in said town, or subject the same to such tax as may be deemed proper; shall have power to levy and collect a special tax from each lotholder or owner of the same, a sum sufficient to pave the side walk before said lot fronting on any street, or making any other regulations or enactments in relation to all the side walks in said town.

President appointed; his duties.

Collector of taxes.
His powers, duties, fees.

4. *Be it further enacted*, That the said board shall appoint one of its members president, who is hereby authorized to do all acts, execute all deeds, bonds or other writings required by the said board on behalf of the said corporation; and shall also appoint a collector of taxes and levies made by said board; which collector so appointed shall have power to make distress for such taxes and levies in the same manner that sheriffs are now authorized to do in the collection of the revenue due to the commonwealth, and shall be entitled to the same commission and fees; which collector, before entering upon the duties of his office, shall execute a bond with good security, payable to the said corporation, in such penalty as the board may direct, conditioned to collect and pay to the treasurer all taxes and levies assessed by the board, and placed into his hands for collection; and the said corporation may from time to time recover in any of the courts held in said county, upon ten days previous notice, any sum remaining due from said collector, against him and his securities, or either of them, with ten per centum damages on such sums from the time it became due until payment.

Authenticated copies of proceedings of board to be legal evidence.

Repealing clause.
Commencement.

5. *Be it further enacted*, That all copies purporting to be copies of the by-laws, orders or ordinances of the said board, or extracts from the same, certified to be correct by the president of the board, shall be received by all courts and magistrates as legal evidence.

6. *Be it further enacted*, That all acts and parts of acts coming within the purview of this act are hereby repealed; and this act shall be in full force from and after the passage thereof.

CHAP. 280.—An ACT to establish the town of Princeton at the seat of justice for the county of Meigs.

(Passed April 4, 1838.)

Town of Princeton established.

1. *Be it enacted by the general assembly*, That not exceeding thirty acres of land, the property of William Smith, lying at the

seat of justice of the county of Mercer, as the same has already been laid off, and may be hereafter further laid off and extended into lots, with convenient streets and alleys corresponding thereto, shall be, and the same is hereby established a town by the name of "Princeton."

2. *Be it further enacted*, That Robert Hall, George W. Pearis, Trustees. James Caffee, Moses E. Kerr and Joseph Maxwell, gentlemen, be, and they are hereby appointed trustees thereof, who shall, before they enter upon the duties of their office, take an oath or make solemn affirmation before some justice of the peace for the county of Mercer, faithfully and impartially to execute the same, according to the best of their skill and judgment, any three or more of whom may form a quorum and proceed to business under the authority of this act.

3. *Be it further enacted*, That the trustees of said town, or any ^{Powers of trustees.} three of them, shall be, and they are hereby empowered to make such by-laws and ordinances for regulating the police thereof, removing or abating nuisances, and causing the same to be done, and for the regular building of houses therein, as to them shall seem best, and to improve and repair the public streets and alleys of said town, and the same to amend, enforce or repeal: *Provided*, That such by-laws and ordinances shall not be repugnant to, or inconsistent with the constitution and laws of the United States, or of this commonwealth.

4. *Be it further enacted*, That in order to afford the citizens of said town an opportunity of knowing at all times the proceedings of said trustees, there shall be provided a well bound book or books, as they may become necessary from time to time (at the expense of the proprietor of said land), in which shall be recorded in a plain handwriting, the several certificates of the qualification of said trustees, and their successors in office, and all their by-laws, ordinances, rules and regulations and other proceedings, which book or books shall be always kept in said town, and be accessible at all times to the inspection of the citizens and residents of said town and other persons who may have or desire an interest therein.

5. *Be it further enacted*, That so much of the act, entitled, "an ^{Regulations of general law applica-} _{bble.} ^{2 R. C. 1819, pp.} _{319, 320.} act to reduce into one act all acts and parts of acts concerning the office of trustees or directors of the several towns within this com- monwealth, and for supplying vacancies in the same," passed the second day of March, eighteen hundred and nineteen, as is of a public and general nature, shall be regarded as the law in relation to the town of Princeton hereby established.

6. *Be it further enacted*, That the trustees of said town, or any ^{Plat of town to be made.} three of them, shall, so soon as convenient, cause a plat or drawing of the plan of said town to be made, with such remarks and explanations thereon or thereunto annexed, in writing, as they may deem necessary and proper, and shall place the same in the clerk's office of the county court of the county of Mercer, and the clerk of said county court shall enter the same of record, and preserve the original in his office.

7. This act shall be in force from its passage.

Commencement.

CHAP. 281.—An ACT extending the jurisdiction of the hustings court of the town of Staunton, and concerning the overseers of the poor of the town of Petersburg.

(Passed April 6, 1838.)

Jurisdiction of
hustings court of
Staunton extend-
ed.

Non-residents em-
powered to sue re-
sidents in corpora-
tion court.

Time and place of
meeting of over-
seers of poor of
Petersburg, how
prescribed.

Fines for failing to
attend meetings.

Commencement.

1. *Be it enacted by the general assembly,* That it shall and may be lawful for all persons residing without the corporation of the town of Staunton to institute and prosecute suits in the hustings court of the said town against their debtors residing within the said corporation, in the same manner that citizens of the said town are now authorized under and by the act, entitled, "an act to incorporate the town of Staunton, in the county of Augusta," passed December the twenty-third, eighteen hundred and one, and whether the cause of action shall have originated within the said corporation or elsewhere.

2. *And be it further enacted,* That it shall be lawful for the common council of the town of Petersburg to prescribe the time and place for the meetings of the overseers of the poor of the said town, not exceeding once in every month; and to impose a fine not exceeding five dollars for every failure to attend such meetings without having a sufficient excuse, to be adjudged of by the said common council, for such failure.

3. This act shall be in force from the passing thereof.

CHAP. 282.—An ACT to extend the limits of the town of Union, in the county of Monroe.

(Passed February 13, 1838.)

Limits of Union
extended.

Addition to be laid
off.

Lots in addition,
how and when to
be sold.

Price limited.

Notice of sale to
be given.

1. *Be it enacted by the general assembly,* That the limits of the town of Union, in the county of Monroe, as heretofore established, shall be, and the same are hereby extended on the north side thereof, to the line which divides the land belonging to the heirs of Matthew Alexander, deceased, from the land of Hugh Caperton, so as to include all the land belonging to the said heirs of Matthew Alexander, deceased, lying on the north side of said town. And it shall be the duty of the trustees of said town to lay off, or cause to be laid off, into lots of a quarter of an acre each, the said land so added to the town, with streets and alleys corresponding to the present plan thereof; and shall mark with convenient and lasting signs the divisions, metes and bounds, the relative situation and distances of the lots, streets and alleys so laid off, and for that purpose may employ a surveyor.

2. *Be it further enacted,* That so soon as the land hereby added to said town shall be laid off and marked as required in the preceding section, it shall be the duty of Hugh Caperton, guardian of the heirs of Matthew Alexander, deceased, to sell the same at public auction, for the highest price that can be had, at such time or times, and in such manner as to him may seem most conducive to the interest of the estate of said Alexander, deceased, on a credit of from one to two years, having the payments secured by a lien upon the lot or lots, part or parts of lots, and also by such personal security as to him shall appear sufficient: *Provided, however,* That no such quarter of an acre lot shall be sold unless it sell for a sum not less than twenty-five dollars, and in the same proportion for a less quantity: *And provided also,* That not less than thirty days notice of the time and place of sale shall have been published in some one or more newspapers printed in or next nearest to the said

town, and also set up at the door of the courthouse of said county of Monroe.

3. Be it further enacted, That all land and lots, together with the streets and alleys incident thereto, so added to and included within the boundary of said town, together with the persons owning or occupying the same, and their property, shall be subject to the same by-laws, rules and regulations as if they had been included within the original boundaries thereof, and the proprietors and occupants of said land and lots so added, shall be entitled to all the rights and privileges of persons owning or occupying lots or land in the original limits of said town.

4. This act shall be in force from and after the passing thereof. Commencement.

CHAP. 283.—An ACT concerning the town of Watson in the county of Hampshire.

(Passed February 12, 1838.)

1. Be it enacted by the general assembly, That the commissioners appointed by the act, entitled, "an act to amend an act, entitled, 'an act authorizing certain commissioners to raise a sum of money by lottery for the purposes therein mentioned,'" passed January the twenty-ninth, eighteen hundred and thirty, which was passed February the nineteenth, eighteen hundred and thirty-one, shall be, and they are hereby authorized and required to pay over any and all moneys in their hands arising from the lottery authorized by the said act of the twenty-ninth day of January, eighteen hundred and thirty, ("for the purpose of improving the public baths, called Capon springs, in the town of Watson in the county of Hampshire, and the grounds around, and appurtenant thereto, and to the making a safe and convenient road across the mountain, from the east side thereof to the said springs,") to the trustees of said town of Watson, to be by them laid out in the improvement of the baths and public lot in said town, the sum in the hands of said trustees being represented as too inconsiderable for the purposes for which the said lottery was intended, and the lottery having failed, no further supply of money is expected.

2. This act shall be in force from the passing thereof. Commencement.

CHAP. 284.—An ACT to amend the act, entitled, "an act to incorporate the city of Wheeling in Ohio county."

(Passed March 9, 1838.)

1. Be it enacted by the general assembly, That the mayor of the city of Wheeling in the county of Ohio, shall hereafter be annually elected from amongst the citizens thereof qualified to act as common councilmen by the qualified voters thereof, on the same day of the general election held in and for said city, and shall hold the office for the term of one year, and until his successor shall be qualified. It shall be the duty of the mayor of said city to cause all the laws and ordinances thereof to be enforced, to keep the seal of the said city, and to perform all such other duties as the common council may ordain, not inconsistent with the laws and constitution of this commonwealth, or of the United States. He shall also preside at the meetings of the common council, but shall in no case be entitled to a vote in the deliberations of said body, except when there is a tie; he shall then give the casting vote; he shall also for his services receive out of the treasury of said city such reasonable

Vacancy how supplied. compensation and perquisites as the council may ordain, but in no case shall his salary and perquisites be increased or diminished during the time for which he shall then be elected. When the said office shall be vacant from refusal to serve, death, resignation, or any other cause, the common council shall have power to fill the vacancy for the residue of the term.

Power to grant licenses and collect taxes on horses and carriages.

2. *Be it further enacted,* That the council shall have authority within said city to grant licenses to the owners and keepers of horses, hacks, carts, wagons, drays, and every description of wheel carriages kept within the said city for hire; to levy and collect taxes thereon, and to subject the same to such regulations as the interest or convenience of the inhabitants of said city, in the opinion of the council, shall require.

Taxes on merchants.

3. *Be it further enacted,* That the said council shall have authority to levy and collect taxes from the vendors of goods, wares and merchandize within the said city: *Provided always,* That the tax levied and collected from such vendor, shall not exceed in any one year one fourth of one per centum on the value of the stock of goods, wares and merchandize held by such vendor or vendors at the time of levying such tax. It shall be the duty of the assessors of said city, or any three of them, annually at the time of making the assessment of real estate and tithables in said city, to ascertain the value of the stock of goods, wares and merchandize held by every such vendor, and report the same to the council. In ascertaining the said value, the said assessors shall be authorized to require every such vendor to state the value of his or their stock of goods, wares and merchandize, under oath or affirmation, according to the best of their knowledge and belief.

Taxes on commission and forwarding merchants.

4. *Be it further enacted,* That the council shall have authority to levy and collect taxes from commission and forwarding merchants within said city, provided the tax so levied and collected from each commission and forwarding merchant shall not exceed in any one year the sum of fifty dollars. The said council shall also have authority to grant licenses to, and to levy and collect taxes from hawkers and pedlars, within said city, and to subject the same to such regulations as the interest or convenience of the inhabitants of said city, in the opinion of the council, shall require.

Repealing clause.

5. *Be it further enacted,* That all parts of the act, entitled, "an act to incorporate the city of Wheeling in Ohio county," passed March the eleventh, eighteen hundred and thirty-six, coming within the purview of this act, shall be, and the same are hereby repealed: *Provided however,* That nothing herein contained shall be so construed as to extend to, or abridge any right or remedy which has, or may have accrued before the passing of this act.

Subscription to Baltimore and Ohio rail-road.

6. *Be it further enacted,* That it shall be lawful for the common council of said city to take and subscribe for ten thousand shares of the capital stock of the Baltimore and Ohio rail-road company, instead of twenty-five hundred shares, heretofore authorized by law.

Commencement.

7. This act shall be in force from the passing thereof.

CHAP. 285.—An ACT concerning the town of Woodstock in the county of Shenandoah.

(Passed March 23, 1838.)

Place for holding public meetings to be provided.

1. *Be it enacted by the general assembly,* That it shall be lawful for the trustees of the town of Woodstock in the county of Shenan-

doah, to expend so much of the amount of money authorized to be assessed and collected annually in the said town, by the act, entitled, "an act to amend an act, entitled, 'an act concerning Woodstock,'" passed January the seventeenth, eighteen hundred, which was passed February the ninth, eighteen hundred and eight, as shall be necessary to fit up and complete a room at the market house of said town, for the purpose of accommodating the board of trustees of said town in their meetings, and the inhabitants thereof, at any public meeting which may be duly called and held in pursuance of law, custom or usage: *Provided*, That such expenditure ^{Province} shall not interfere with the ordinary appropriation of said town, or make it necessary to levy other taxes or contributions from the inhabitants of said town in future.

2. This act shall be in force from its passage.

Commencement.

CHAP. 286.—An ACT to authorize the county court of Northumberland to acquire a lot for the erection of a jail and for other purposes.

(Passed March 26, 1838.)

1. *Be it enacted by the general assembly,* That the county court ^{Power to acquire} of Northumberland county be, and they are hereby authorized and ^{lot for jail.} empowered to acquire by deed of conveyance to them and their successors forever, for the use of said county, any lot of land they may select, adjoining or contiguous to the public property at the courthouse thereof, not exceeding in quantity two acres, for the purpose of erecting thereon a new jail for said county, which new jail when so erected and completed, shall be deemed and considered the jail of the county aforesaid, and together with the lot thus acquired, shall be to all intents and purposes a part of the public property of the said county.

2. *Be it further enacted,* That the court of said county be, and ^{Levy on county.} are hereby empowered annually to levy in advance on the people of said county such proportion of the sum necessary for the erection of the jail, and for the purchase of the lot aforesaid, as shall be least burthensome to the people, and to the said court shall seem proper and expedient; and the sums so levied may be, as they are ^{Power to loan out} severally collected and received, loaned out by the court aforesaid, ^{money until wanted.} or by their agent appointed for the purpose; as an accumulating fund, the principal and interest of which to be applied in payment of the expenses incurred by the county in purchasing the lot and erecting the aforesaid jail: *Provided*, That the said court may wish so to loan the said sums of money or any portion thereof.

3. *Be it further enacted,* That, so soon as the new jail ^{Sale of old jail.} aforesaid shall have been completed, it shall and may be lawful for the county court aforesaid, by their commissioner or agent appointed for the purpose, to sell the old jail of said county, and apply the amount of such sale to the payment of the debt of said county incurred herein.

4. This act shall be in force from its passage.

Commencement.

CHAP. 287.—An ACT authorizing the county court of Lancaster to convey a part of the public lot of that county.

(Passed February 14, 1838.)

1. *Be it enacted by the general assembly,* That the county court ^{County court of} Lancaster ^{authorized to convey} of the county of Lancaster are hereby authorized and empowered

and acquire certain lots.

to convey by such person or persons as they may appoint for that purpose, the acting magistrates of the county having been first summoned to consider the propriety thereof, and a majority being present, to Daniel P. Mitchell of the said county, the two lots heretofore leased by the court of the county aforesaid, to William H. Dandridge and Robert T. Dunaway, being parts of the public lot, upon condition that the said Mitchell execute and deliver to the court of the said county, a good and sufficient deed, conveying to the justices of the county of Lancaster, them and their successors, in fee simple, for the use and benefit of the said county, an equal quantity of land to that herein authorized to be conveyed to him, adjoining the courthouse or public lot of the said county.

Commencement.

2. This act shall be in force from the passing thereof.

CHAP. 288.—An ACT to authorize the county court of Ohio county to sell the ground on which the jail of said county is erected, and for other purposes.

(Passed March 3, 1838.)

County court of Ohio authorized to sell and purchase lot for jail.

1. Be it enacted by the general assembly, That it shall be lawful for the county court of Ohio county to sell the lot of ground in the city of Wheeling, with its appurtenances, on which the jail of the said county is erected, and that the said court shall have authority to purchase any other lot or ground, at the expense of the said county, and to erect thereon a suitable jail and all other buildings necessary for that purpose.

Power to borrow money for erecting courthouse and public buildings.

2. And be it further enacted, That for the purpose of erecting a courthouse and other public buildings for the said county, it shall be lawful for the said court to borrow on the credit of said county, such sums of money as may, in the opinion of said court, be required for that purpose, upon such terms and credit as may be agreed on by the said court. And it shall be lawful for the banks in the city of Wheeling, or for either of them, to buy the scrip of said county, issued for that purpose, in any sum not exceeding thirty thousand dollars, or to make any loan or loans to said county, for the purposes aforesaid, upon such terms or credit as the said banks may think proper, but they shall not charge therefor any greater interest than is allowed by the laws of this commonwealth.

Commissioners to be appointed to sell and convey property.

3. And be it further enacted, That the said court may appoint three commissioners to sell the lot of ground aforesaid, and convey the same to the purchaser, and also for the purpose of executing all the provisions of this act, whose acts shall be approved of by the said court before the same shall be conclusive. The said court shall take from the said commissioners bond with good security, payable to any four justices of said county, conditioned for the performance of their duties, and otherwise as the said court may direct.

Court how constituted to make orders relative to buildings and lot.

4. And be it further enacted, That no order shall be made by the said court in or about the premises, unless a majority of the acting justices of the said county are present, or unless all the justices of the county, by an order made at the preceding court, shall have been summoned to attend for that purpose.

Commencement.

5. This act shall be in force from the passing thereof.

CHAP. 289.—An ACT authorizing the sale of certain lands devised to the overseers of the poor of Surry county.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That the overseers of poor of Surry shall be, and are hereby empowered and convev certain property. to sell at public auction, after one month's sufficient public notice, on such terms as they may deem advisable, and to convey to the purchaser or purchasers all the right, title and interest in and to a certain tract or parcel of land in said county, vested in them by the last will and testament of one John Wesson, deceased. The purchase money shall be paid over to the school commissioners of said county, and by them be vested in such safe manner as in their opinion is best calculated to yield an adequate interest or dividend, and to secure the repayment of the principal when desired; and the annual interest thence derived, shall by them be applied in aid of the appropriation from the literary fund expended in the instruction of poor orphan children in said county. But the power is hereby reserved to the general assembly to make such other application of the funds arising from said sale, to the instruction of the poor of said county, as may be deemed expedient: *Provided*, That nothing herein contained shall impair the rights of any person or persons claiming title to the said land other than the overseers of the poor aforesaid.

2. This act shall be in force from its passage.

Commencement.

CHAP. 290.—An ACT authorizing the county court of Tazewell county to sell certain property.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That the county court of Tazewell county be, and is hereby authorized to sell at such time and upon such terms as the said court may agree, by an order made and entered on the records of the said court to that effect, the old jail of said county, and so much of the public lands as the said court may in its discretion think proper.

2. This act shall be in force from its passage.

Commencement.

CHAP. 291.—An ACT concerning the Nottoway tribe of Indians.

(Passed April 4, 1838.)

1. *Be it enacted by the general assembly,* That the circuit superior court of law and chancery for the county of Southampton shall be, and the same is hereby authorized and empowered, upon the application of any descendant or descendants of any of the females of the Nottoway tribe of Indians, to ascertain, either by reference to a commissioner, or by evidence exhibited before the court, as to it shall seem best, the value of the interest of such descendant or descendants in the real and personal estate held in trust for the use and benefit of the said tribe, having first summoned the trustees of the tribe to represent their interests upon such application; and when the interests of such descendant or descendants shall have been so ascertained, it shall be lawful for the said court to order the said trustees to pay to such descendant or descendants out of the funds of the tribe, the amount of the ascertained value of the said interests, to have and to hold the same as the individual and absolute property of such descendant or descendants in full discharge Value of interest of Indians in property of tribe, how ascertained. When ascertained ed, how to be paid.

Power to divide property among tribe.

of all his or their interest or claim in and to the trust estate aforesaid; or if it shall seem best to the said court upon a full hearing of the whole matter, and mature consideration thereof, it shall have power to assign and set apart to such descendant or descendants, to be held in manner aforesaid, such portion of the real and personal estate, as will be of value equal to the amount of the interest of such descendant or descendants ascertained as aforesaid: *Provided*, That it shall be the duty of the said court to grant such privileges only to such applicants as in its opinion are not likely to become chargeable to any part of the commonwealth.

Circuit court authorized to review and correct orders of county court.

2. *And be it further enacted*, That it shall be lawful for the said circuit superior court of law and chancery for the said county of Southampton, and the same is hereby authorized and empowered, upon any such application as aforesaid, to review and correct any order or orders heretofore made by the county court of said county, allotting to any such descendant or descendants of the said tribe, any portion of the said trust fund, so as to make the portion thus allotted to such descendant or descendants equal to the amount of their interests in the said fund.

Commencement.

3. This act shall be in force from the passing thereof.

CHAP. 292.—An ACT authorizing the sale of certain lands late the property of Cornelia Hopkins, deceased.

[Passed February 10, 1838.]

Preamble.

Whereas by a certain deed of marriage settlement between Cornelia Lee and John Hopkins, all the estate of the former was conveyed to Bushrod Washington and William Hodgson in trust, among other things, for such uses and purposes, and for such persons as the said Cornelia should by last will declare and appoint; and she by her last will did devise all the said estate unto the same Bushrod Washington and William Hodgson in trust, for the sole use of her four daughters, being her only descendants, namely: Portia, now the wife of Robert T. Baldwin of Winchester; Phillipa, now the wife of Cassius Lee of Alexandria; Mary, the wife of William Jackson of the county of Clarke, and Harriett, the wife of Richard K. Meade of the county of Albemarle, with remainder in case of the death of any one or more of them without issue, living at the time, to the survivors and survivor for life, remainder to her or their issue; and in case of the death of all four of them, without issue living at the time, with remainder to Mrs. Portia Hodgson, who has since by deed in due form, released to the said tenants for life and their heirs, all her right and title in and to the said estates, as will more fully appear by the will and deeds before recited. And whereas all the parties to the first mentioned deed have departed this life, leaving the four *femes covert* above named, tenants for life of the said estates, which consist chiefly of lands lying in the counties of Westmoreland, Frederick, James City, Surry, Jackson and Berkeley, some of them in very small tracts, and a lot in Williamsburg; all which lands have been greatly impaired in value by neglect and improper cultivation, and do not now produce a rent of one per cent. upon their estimated value; and from their dispersed situation and distance from the residence of the tenants for life, they will continue probably to be very unproductive to them, and decrease in value to the remaindermen; and they the said Baldwin and

wife, Lee and wife, Jackson and wife, and Meade and wife, having petitioned the legislature to authorize them to sell the said lands:

Therefore,

1. *Be it enacted by the general assembly,* That the circuit superior court of law and chancery for Frederick county shall have power, and is hereby required to decree a division of such portion of said lands as shall be susceptible of an advantageous division among the parties, and to decree a sale of the residue, or to assign any part or parts to one or more of the parties at a fair valuation, and to sell the residue, or to decree the sale of the whole, whichever course may be deemed most beneficial to the parties concerned, but having a due regard to the future interests of those entitled in remainder. And the court shall cause the whole nett proceeds of the sales of all the lands which may be sold as aforesaid, to be invested in other real estate, suitable and convenient for the parties entitled to the life estate, but with a due regard to the interests of the remaindermen.

2. *And be it further enacted,* That after such investments shall have been made, the said court shall cause the whole estate to be divided into four equal parts, as nearly as may be, and shall assign one fourth to the said Portia Baldwin, one fourth to Phillipa Lee, one fourth to Mary Jackson, and one fourth to Harriett Meade, and shall cause the same to be conveyed to proper trustees, to be held for the use of the persons last named, during their respective lives, with remainder to their issue respectively, in the manner set forth in the last will of the said Cornelia Hopkins, deceased. And such estate or portion shall thenceforth be held by the trustees for the use of the persons before named respectively, and their issue, for the same persons, and under the same limitations and conditions in all respects as are prescribed in the will of the said Cornelia Hopkins, deceased, in relation to the estate devised to the said Bushrod Washington and William Hodgson, and in the same manner they would have the estate so devised if a partition thereof had been made in their lifetime.

3. *And be it further enacted,* That it shall not be necessary to make any persons except the said Robert T. Baldwin and wife, Cassius Lee and Phillipa his wife, William Jackson and Mary his wife, and Richard K. Meade and Harriett his wife, parties to the suit which may be instituted for the purposes hereinbefore stated; and the court shall have power to appoint the said Robert T. Baldwin, Cassius Lee, William Jackson and Richard K. Meade, or any two or more of them, commissioners to make sale of the lands aforesaid, and for other purposes hereinbefore mentioned: *Provided*, That previously to their acting as such, they shall execute a bond or bonds, with sufficient security, to be approved by the court, and having a condition to account for the proceeds of all sales of land decreed to be sold as aforesaid, according to the subsequent orders and decrees of the court; and the purchasers of lands sold under the decree or decrees of the court aforesaid, agreeably to the provisions of this act, shall hold the same in fee simple, discharged from the devisees, remainders and limitation contained in the will before recited.

4. This act shall be in force from the passing thereof.

Commencement.

Circuit court of
Frederick to de-
cree division or
sale of property.

Proceeds of sales
how invested.

Division of prop-
erty how made.

Who to be parties
to the suit for divi-
sion of property.

Who to be com-
missioners to sell
property.

To execute bonds.

Rights of pur-
chasers.

CHAP. 293.—An ACT to authorize Samuel Taylor to convey the interests of his grandchildren in the tract of land called Flatlick.

(Passed March 9, 1838.)

Preamble.

Whereas it has been represented to the legislature of Virginia that it would be in a high degree beneficial to the devisees under the will of Creed Taylor the elder, deceased, that a portion of his real estate, called "Flatlick," lying in the county of Cumberland, should be sold for the payment of a debt due from his estate to William Wilson of the said county, and which the adult devisees of the said tract of land have contracted to sell and convey to him for that purpose, in order to save the remaining slaves, now the only productive part of the testator's estate; but two of the devisees of the said tract of land, to wit: Samuel Creed Gholson and Ann Jane Gholson being infants, their interests in the said land cannot be conveyed to the said Wilson and his heirs without aid from the legislature:

Samuel Taylor authorized to convey certain land of Manchester, the grandfather of the said infant devisees, and executor of the said Creed Taylor, deceased, shall have full power and authority to convey by a proper deed, to be executed by him for that purpose, all the estate, right, title and interest of the said infant devisees in the said tract of land, to the said William Wilson, his heirs and assigns, in fee simple.

1. Be it therefore enacted, That Samuel Taylor of the town of Manchester, the grandfather of the said infant devisees, and executor of the said Creed Taylor, deceased, shall have full power and authority to convey by a proper deed, to be executed by him for that purpose, all the estate, right, title and interest of the said infant devisees in the said tract of land, to the said William Wilson, his heirs and assigns, in fee simple.

2. This act shall be in force from the passage thereof.

CHAP. 294.—An ACT concerning the sale of a tract of land sold by the guardian of Elizabeth P. Watkins.

(Passed March 23, 1838.)

Preamble.

Whereas Richard Booth, guardian of Elizabeth P. Watkins, did, by contract with Benjamin Tucker, sell to the said Benjamin Tucker the interest of the aforesaid Elizabeth P. Watkins in a tract of land in the county of Dinwiddie, called "Mount Airy," and it appearing that the sale aforesaid would be highly beneficial to the said Elizabeth P. Watkins: Therefore,

Richard Booth authorized to convey certain land of E. P. Watkins. **1. Be it enacted by the general assembly,** That the said Richard Booth, the guardian of the said infant, shall have full power and authority to convey by a proper deed to be executed by him for that purpose, all the estate, right, title and interest of the said infant in the said tract of land to the said Benjamin Tucker, his heirs and assigns, in fee simple.

2. This act shall be in force from the passing thereof.

CHAP. 295.—An ACT authorizing the sale of the lands of Peter Zeluff, in the county of Nansemond.

(Passed March 9, 1838.)

Preamble.

Whereas it is represented to the general assembly by Eleanor Zeluff, widow and relict of Peter Zeluff, deceased, and as guardian of John Zeluff, Alethia Ann Zeluff and Joseph Zeluff, children and devisees of the said Peter Zeluff, of the town of Northfield, county of Richmond, and state of New York; that the said Peter Zeluff died seized of a tract of land in Nansemond county, and state of Virginia, the sale of which will very materially benefit the devisees; that the testator, by his will, gave to his widow all his estate, both real and personal, (except some part thereof left to Magdalen Squier, wife of William Squier,) during her single life, then to his children

aforesaid, in equal shares; subject, however, to a provision, that if the widow shall marry, then she is to have any equal share with the children, and no more; that the widow and children are not likely to remove to the said tract of land in this commonwealth; and that their interest manifestly requires a sale of the land aforesaid: Therefore,

1. *Be it enacted by the general assembly,* That the county court of Nansemond county shall have power and authority to authorize Edmund Godwin, administrator of the estate of the said Peter Zeluff in the state of Virginia, to sell and convey the tract of land in the county of Nansemond, which belonged to the said Peter Zeluff at the time of his death, on such terms as the said court may deem expedient, and decree the mode in which he shall account for the bonds, or other proceeds of the said sale, to those entitled thereto, having first required of the said administrator a new bond, with such security as the said court shall deem sufficient, conditioned to perform the decree of the said court, and account for the proceeds of the said sale to the parties entitled thereto, according to the directions of the court. And should the said Godwin refuse or neglect to give such bond, with such security, within two months after the passage of this act, or should the court deem it proper to appoint some other person than the said Edmund Godwin, the said court shall appoint some other fit person to carry the sale into effect, taking bond and security as aforesaid.

2. *And be it further enacted,* That the proceeds of the sale of the said land shall pass to the same persons, and in the same proportions, as the real estate would have passed had this act never been enacted.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 296.—An ACT authorizing Sarah W. Harper to remove certain dower slaves beyond the limits of the commonwealth.

(Passed January 24, 1838.)

Whereas it is represented to the general assembly by Sarah W. Harper, widow and relict of William H. T. Harper, deceased, of the county of Dinwiddie, that her said husband departed this life in the year eighteen hundred and thirty-two, leaving the following children, to wit: Mary J. Harper, who has intermarried with Richard Howard, James W., John P., George B., Sarah W., Harriet R. and Thomas B. T. Harper; the six last named are infants, and of whom the said Sarah W. has become the guardian; that in the division of the estate of the said William H. T., there were assigned to the said Sarah W., his widow, as dower in the slaves of her said husband, seven negroes, one man valued at fifty dollars less than nothing, two women and four children; that the petitioner is desirous of removing beyond the limits of the commonwealth with her children and the dower slaves so assigned her, (her securities in her guardian bond being willing and assenting thereto,) has petitioned the general assembly for permission so to do, without incurring the forfeiture imposed by law: Therefore,

1. *Be it enacted by the general assembly,* That the said Sarah W. Harper, widow as aforesaid, shall be, and she is hereby authorized and permitted to carry beyond the limits of the commonwealth, into the state of Missouri, or elsewhere within the United States, the slaves held by her as aforesaid, without incurring the

Authority to Sarah W. Harper to remove slaves from state.

Proviso.

forfeiture for so doing, imposed by the forty-ninth section of the act, entitled, "an act reducing into one the several acts concerning slaves, free negroes and mulattoes," passed the second of March, eighteen hundred and nineteen: *Provided however,* That before such removal, the securities of the said Sarah W. Harper, in her guardian bond, shall respectively, before the county court of Dinwiddie county, enter upon the records of that court their willingness and assent thereto.

Commencement.

2. This act shall be in force from the passing thereof.

CHAP. 297.—An ACT authorizing the sale of certain personal estate belonging to the children of Rebecca Pearis, deceased.

[Passed March 9, 1838.]

Preamble.

Whereas it is represented to the general assembly that the children of Rebecca Pearis, deceased, who was the daughter of Isaac Chapman, deceased, are entitled to certain personal estate, consisting of slaves, some of whom are quite young, and others much advanced in life, and that by a sale of the said slaves the interests of the said children would be greatly promoted: Therefore,

Commissioners to sell certain slaves of Isaac Chapman, deceased.

1. *Be it enacted by the general assembly,* That John Chapman, William Chapman, and David I. Chapman, executors of the said Isaac Chapman, deceased, are hereby appointed commissioners for the purpose, any one or more of whom may act, to sell and dispose of the slaves derived by the said children from their grandfather, the said Isaac Chapman, deceased, at such time, and upon such terms, as he or they who may act shall think most beneficial for those interested therein; and the proceeds arising from such sale the commissioner or commissioners who may act are hereby directed to pay over to the guardian or guardians of the said children, respectively, according to their respective interests therein: *Provided however,* That no such payment shall be made to such guardian or guardians, until he, she or they shall have executed a new bond, with good security, in the court of the county in which they shall have been appointed, conditioned as other bonds of the like nature.

Proceeds how applied.

Proviso.

2. *And be it further enacted,* That such of the commissioners hereinbefore named as may act shall, as soon thereafter as practicable, return to the court in which the will of the said Isaac Chapman, deceased, was admitted to record, a full report of his or their proceedings, under the provisions of this act, to be by the said court entered of record.

Report of commissioners to court.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 298.—An ACT concerning the parishes of Farnham and Lunenburg in the county of Richmond.

(Passed April 5, 1838.)

Preamble.

Whereas, by an act of the Virginia assembly, passed the fifteenth of February, eighteen hundred and thirteen, the plate belonging to the parishes of Farnham and Lunenburg in the county of Richmond, was ordered to be sold, and the money arising therefrom being yet unappropriated:

Proceeds of sale of plate how appropriated.

1. *Be it therefore enacted by the general assembly,* That the said sum or sums of money, with the interest thereon, be paid over to the vestries of the congregations to which the said plate belonged, to be by them appropriated in such manner as may seem to them best.

2. All acts and parts of acts coming within the purview of this Repealing clause.
act, shall be, and they are hereby repealed.

3. This act shall be in force from the passage thereof.

Commencement.

CHAP. 299.—An ACT divorcing Elenorah A. Allison from her husband Lemuel R. Allison.

[Passed March 23, 1838.]

1. *Be it enacted by the general assembly,* That the marriage here- Elenorah A. Allison
son divorced.
tofore solemnized between Lemuel R. Allison and Elenorah A. his wife, formerly Elenorah A. Neff, of the county of Hampshire, shall be, and the same is hereby dissolved; the said Elenorah A. forever divorced from her husband, the said Lemuel R., and the power and authority of the said Lemuel R. over the person and property of the said Elenorah A. and over the persons and property of the children of the said Elenorah A. shall henceforth cease and determine: *Provided however,* That nothing herein contained shall be construed to prevent the child or children of the said marriage from inheriting and transmitting inheritance in the same manner as if this act had never passed.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 300.—An ACT divorcing Sally Ballinger from her husband Richard Ballinger.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That the marriage here- Sally Ballinger di-
vorced.
tofore solemnized between Richard Ballinger and Sally his wife, formerly Sally Wade, of the county of Bedford, shall be, and the same is hereby dissolved; the said Sally forever divorced from her husband, the said Richard, and the power and authority of the said Richard over the person and property of the said Sally, and over the persons and property of the children of the said marriage, shall henceforth cease and determine: *Provided however,* That nothing herein contained shall be construed to prevent the children of the said marriage from inheriting and transmitting inheritance in the same manner as if this act had never passed.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 301.—An ACT divorcing Richard B. Hall from his wife Sarah.

(Passed March 19, 1838.)

1. *Be it enacted by the general assembly,* That the marriage here- Richard B. Hall
divorced.
tofore solemnized between Richard B. Hall and his wife Sarah, (formerly Sarah Paul,) of the county of Orange, shall be, and the same is hereby dissolved; the said Richard B. forever divorced from his wife, the said Sarah, and all right, title or interest of the said Sarah in or to the estate, real or personal, of the said Richard B. Hall, shall henceforth cease and determine.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 302.—An ACT divorcing George Heyden from his wife Mary Anne.

(Passed March 13, 1838.)

1. *Be it enacted by the general assembly,* That the marriage here- George Heyden
divorced.
tofore solemnized between George Heyden, of the county of Smyth, and Mary Anne his wife, (formerly Mary Anne Weddell,) shall be, and the same is hereby dissolved, and the said George forever di-

vorced from the said Mary Anne, and that all right, interest or claim of the said Mary Anne in or to the estate, real or personal, of the said George, or any part thereof, shall cease henceforth and forever.

Commencement. 2. This act shall be in force from the passing thereof.

CHAP. 303.—An ACT divorcing Elizabeth A. Pannill from her husband Edmund Pannill.

(Passed April 4, 1838.)

Elizabeth A. Pannill divorced.

1. *Be it enacted by the general assembly,* That the marriage heretofore solemnized between Edmund Pannill and Elizabeth A. his wife, of the county of King William, shall be, and the same is hereby dissolved, and the said Elizabeth A. forever divorced from the said Edmund, and that the power and authority of the said Edmund over the person and property of the said Elizabeth A. shall henceforth cease and determine.

Commencement. 2. This act shall be in force from the passing thereof.

CHAP. 304.—An ACT changing the names of Indiana, Mary E., Josiah and John Lightfoot to that of Wilson.

(Passed March 20, 1838.)

Indiana, Mary E., Josiah and John Lightfoot's names changed.

1. *Be it enacted by the general assembly,* That henceforth Indiana, Mary E., Josiah and John Lightfoot, illegitimate children of _____ Lightfoot and Josiah Wilson, shall have and bear the names of Indiana Wilson, Mary E. Wilson, Josiah Wilson, and John Wilson, by which latter names they shall be called and known as well in courts of justice as without.

Commencement. 2. This act shall be in force from its passage.

CHAP. 305.—An ACT changing the name of Catharine, Raleigh and Sally M'Craw to that of Thompson.

(Passed January 15, 1838.)

Catharine, Raleigh and Sally M'Craw's names changed.

1. *Be it enacted by the general assembly,* That henceforth Catharine, Raleigh and Sally M'Craw, illegitimate children of Nancy M'Craw, deceased, of the county of Grayson, shall have and bear the name of Catharine Thompson, Raleigh Thompson and Sally Thompson, by which latter names alone they shall be called and known, as well in courts of justice as without; and shall also by the said latter name be capable of inheriting any estate, real or personal, in the same manner as if their names had not been changed.

Commencement. 2. This act shall be in force from the passing thereof.

CHAP. 306.—An ACT changing the names of Virginia Smith and others to that of Armstrong.

(Passed March 7, 1838.)

Virginia, Lewis W., Mary Anne and Elizabeth Smith's names changed.

1. *Be it enacted by the general assembly,* That henceforth Virginia Smith, Lewis W. Smith, Mary Anne Smith and Elizabeth Smith, of the county of Louisa, children of Anne Smith and William Armstrong, of the said county, shall have and bear the name of Virginia Armstrong, Lewis W. Armstrong, Mary Anne Armstrong and Elizabeth Armstrong, by which latter name they shall be called and known, as well in courts of justice as without, and also shall, by the said latter name, be capable of inheriting any estate, real or personal, in the same manner as if their names had not been changed.

Commencement. 2. This act shall be in force from the passing thereof.

CHAP. 307.—An ACT directing the manner in which Martin Hancock may execute his bonds as sheriff of the county of Charlotte.

(Passed February 12, 1838.)

1. *Be it enacted by the general assembly,* That Martin Hancock, who has been commissioned sheriff of the county of Charlotte, may, and he is hereby authorized to execute the several bonds required by law to be executed by sheriffs before entering upon the duties of their office, before any two justices of the peace of the said county, who are hereby empowered to receive the acknowledgment of the said Hancock of such bonds, and certify the same under their hands and seals, to the next court to be held for their county; and the securities in the said bonds shall execute the same in the court of the said county in the same manner that such bonds are required by law to be executed. The bonds thus executed shall be admitted to record by the said court, and be as effectual and binding upon the obligors thereto as if the same had been wholly executed in the said court.

2. *And be it further enacted,* That the said Martin Hancock may, and he is hereby allowed to qualify as sheriff aforesaid, by taking the several oaths required by law, before any two justices of the peace of the said county of Charlotte, which oaths the said justices are hereby empowered and required to administer, and return a certificate thereof to the next court of their county, to be by the said court entered of record; and the qualification of the said Hancock thus made, shall be as good and as effectual as if made in the court of the said county.

3. This act shall be in force from the passing thereof.

Commencement.

CHAP. 308.—An ACT concerning James Albert.

(Passed February 13, 1838.)

1. *Be it enacted by the general assembly,* That James Albert of the county of Giles, shall be, and he is hereby allowed the sum of twenty-eight dollars and sixty-one cents, as compensation for his trouble, expense and loss of time incurred by him in pursuing and arresting one John Lucas, who was charged with the commission of the crime of murder in the said county, in the year eighteen hundred and thirty-seven; and the auditor of public accounts shall be, and he is authorized and required to issue a warrant on the treasury in favour of the said James Albert, or to his order or legal representative, payable out of any money therein not otherwise appropriated.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 309.—An ACT concerning Andrew Beard, late a deputy sheriff of the county of Greenbrier.

(Passed February 9, 1838.)

1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized and required to issue a warrant upon the treasury in favour of Andrew Beard, late a deputy sheriff of Greenbrier county, or to his order or legal representative, for the sum of twenty-two dollars and fifty cents, deducting six per centum, payable out of any money therein not otherwise appropriated, being the amount of his list of insolvent muster fines for the year eighteen hundred and thirty-three, allowed and certified by the regimental court of enquiry held for the one

Amount of list of
insolvent fines al-
lowed Andrew
Beard.

hundred and thirty-fifth regiment, in November, eighteen hundred and thirty-four, and not presented for payment within the time prescribed by law.

Commencement. 2. This act shall be in force from and after the passing thereof.

CHAP. 310.—An ACT concerning the heirs of James Booth, deceased.

(Passed April 4, 1838.)

**Sum allowed
Alexander M'Cle-
land for services
of captain James
Booth.**

1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized and required to issue a warrant on the treasury for the sum of one hundred and thirty dollars, in favour of Alexander M'Cleland, in right of his wife Bathsheba, the daughter of captain James Booth, deceased, who served as a captain of rangers or Indian spies for thirteen months during the revolutionary war, to be paid out of any money in the treasury not otherwise appropriated.

**Sum allowed
other children of
James Booth.**

2. *Be it further enacted,* That the auditor be authorized and required to issue like warrants in favour of James Booth, John Booth and Sarah Evans, the three other children of the said captain James Booth, deceased, or in favour of the children of the said James, John and Sarah, upon satisfactory proof that the said James, John or Sarah are dead.

Commencement.

3. This act shall be in force from its passage.

CHAP. 311.—An ACT concerning James Burley, late deputy sheriff of the county of Marshall.

(Passed February 5, 1838.)

**Amount of delin-
quent list allowed
James Burley, de-
puty sheriff of
Marshall county.**

1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized to credit the sheriff of Marshall county for the year eighteen hundred and thirty-six, with the sum of twenty-nine dollars and forty-six cents, being the amount of his delinquent list on land and lots for said year, as appears by the certificate of the auditor, the said delinquent list not having been returned to the court of said county within the time required by law; and should there appear no balance against the sheriff of said county, then the auditor of public accounts shall be, and he is hereby authorized and required to issue a warrant on the treasury in favour of James Burley, deputy sheriff for Samuel Howard, sheriff of Marshall county for said year; or his legal representatives, for the said sum of twenty-nine dollars and forty-six cents, payable out of any money in the treasury not otherwise appropriated.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 312.—An ACT concerning Mary A. Cofer, administratrix of William E. Cobbs, deceased.

(Passed February 26, 1838.)

**Mary A. Cofer
discharged from
payment of a for-
feited recogni-
zance.**

1. *Be it enacted by the general assembly,* That Mary A. Cofer, administratrix of William E. Cobbs, deceased, shall be, and she is hereby discharged from the payment of two thousand dollars, the penalty of her recognizance entered into by the said William E. Cobbs before the county court of Bedford county on the ninth day of April, eighteen hundred and thirty-two, conditioned for the appearance of the said William E. Cobbs, before the judge of the

circuit superior court of law and chancery next to be held for the said county, then and there to answer an indictment to be preferred against him for felony, which said recognition was forfeited, he having failed to appear according to its terms; and it is hereby directed that no farther proceedings be had upon the said recognizance, but that it be henceforth null and void.

2. This act shall be in force from its passage.

Commencement.

CHAP. 313.—An ACT concerning Milly Cooper.

(Passed February 9, 1838.)

1. *Be it enacted by the general assembly,* That all the estate, right, title, interest and demand whatever, which the commonwealth now hath upon or against the estate of Archer Cooper, deceased, late of the town of Lynchburg, shall be, and the same is hereby released to Milly Cooper of the said town, the mother and heir at law of the said Archer, during the lifetime of the said Milly Cooper, and after the death of the said Milly, the estate of the said Archer shall be subject, in all respects, to the right, title, interest and demand of the commonwealth as if this act had never passed.

2. This act shall be in force from its passage.

Commencement.

CHAP. 314.—An ACT concerning John Croddy.

(Passed April 5, 1838.)

1. *Be it enacted by the general assembly,* That the judgment recovered in the circuit superior court of law and chancery of the county of Rockbridge, for the sum of one thousand dollars, upon a forfeited recognizance against John Croddy, as the security of one John J. Jones, who had been indicted in the said court for counterfeiting, and bailed, shall be, and the same is hereby released, and the said John Croddy discharged from the payment thereof; or if paid to the officer into whose hands any execution issued upon the said judgment may have been placed, such officer is hereby authorized and required to refund the same to the said Croddy, his executors or administrators, and shall in no wise thereafter be accountable to the commonwealth for the amount thereof.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 315.—An ACT concerning Allan B. Drummond of the county of Brunswick.

(Passed January 29, 1838.)

1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized and required to issue his warrant upon the treasury, payable out of any money therein not otherwise appropriated, in favour of Allan B. Drummond, of the county of Brunswick, or his legal representative, for the sum of one hundred dollars, the same being the tax on a stallion called Timoleon, which, after being entered with the commissioner of the revenue early in March, eighteen hundred and thirty-six, died during the same month without having benefitted said Drummond, and which tax said Drummond has nevertheless paid into the treasury.

2. This act shall commence and be in force from the passing thereof.

Commencement.

CHAP. 316.—An ACT concerning the sheriff of Fayette county, and the sheriff of Floyd county.

(Passed March 14, 1838.)

Amounts of lists
of delinquents al-
lowed sheriffs of
Fayette and Floyd
counties.

1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized and required, upon a settlement with the sheriff of Fayette county, and the sheriff of Floyd county, for the revenue due from their respective counties for the year eighteen hundred and thirty-seven, to allow to the said sheriff of Fayette county, a credit for the sum of thirty-one dollars and ninety-five cents, and to George Godby, sheriff of the county of Floyd, the sum of seventeen dollars and six cents, the amount of their list of delinquents in the land tax in said counties for the year eighteen hundred and thirty-six, which has been disallowed because not certified by the court within the time prescribed by law.

Commencement.

2. This act shall be in force from its passage.

CHAP. 317.—An ACT concerning the commissioner of the revenue of the county of Frederick.

(Passed March 30, 1838.)

Additional com-
pensation allowed
commissioner of
revenue for Frede-
rick.

1. *Be it enacted by the general assembly,* That in consideration of the accumulated duties which have devolved upon Richard M. Sydnor, (now the commissioner of the revenue for the entire county of Frederick,) in consequence of the creation of the new counties of Clarke and Warren, he shall be, and he is hereby allowed the sum of seventy dollars per year, for the last and present year, in addition to the compensation to which he is or will be entitled by law as such commissioner; and the auditor of public accounts is hereby authorized and required to issue his warrant upon the treasury accordingly.

Commencement.

2. This act shall be in force from the passing thereof.

CHAP. 318.—An ACT concerning Griffin Frost.

(Passed March 14, 1838.)

Sum refunded to
Griffin Frost.

1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized and required to issue a warrant on the treasury in favour of Griffin Frost of the county of Frederick, for the sum of twenty dollars, the amount of militia fines in the thirty-first regiment, improperly paid by him into the treasury in the year eighteen hundred and thirty-three, to be paid to him, or his representative, out of any money therein not otherwise appropriated.

Commencement.

2. This act shall be in force from its passage.

CHAP. 319.—An ACT concerning Peter Kremer.

(Passed April 4, 1838.)

Power to set aside
judgment against
Peter Kremer.

1. *Be it enacted by the general assembly,* That it shall and may be lawful for the circuit superior court of law and chancery for the county of Rockbridge, upon the motion of Peter Kremer, of the county of Frederick, to set aside the judgment rendered in the said court of Rockbridge, upon a forfeited recognizance against the said Kremer, on the twenty-fourth day of May, eighteen hundred and thirty-seven, for the sum of one hundred dollars and the costs, and to quash whatever execution that may have issued thereon; and it shall moreover be the duty of the said court, upon setting aside the judgment and quashing the execution aforesaid, to reinstate the

New trial to be
awarded.

cause upon the docket, and award the said Kremer a new trial in the case, upon the payment of the costs of the former judgment.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 320.—An ACT concerning William Kyle, deputy sheriff of the county of Botetourt.

(Passed April 5, 1838.)

1. *Be it enacted by the general assembly,* That William Kyle, a ^{Sum allowed Wil-} _{liam Kyle for con-} deputy sheriff of the county of Botetourt, shall be, and he is hereby ^{veying convict to} allowed the sum of thirty-three dollars and twelve cents, for bringing Nancy Cousins, a female convict, to the penitentiary in the public stage in the month of February last, that sum, together with the sum allowed him by the auditor of public accounts, being the amount which it would have cost the commonwealth to have transported the said convict to the penitentiary in the ordinary way; and the auditor of public accounts is hereby authorized and required to issue a warrant on the treasury in favour of the said William Kyle, his order or legal representatives, for said sum, payable out of any money therein not otherwise appropriated.

2. This act shall be in force from its passage.

Commencement.

CHAP. 321.—An ACT concerning the inspectors at Liberty warehouse in the town of Lynchburg.

(Passed February 7, 1838.)

Whereas it is represented to the general assembly by the petition *Preamble.* of Howell Lewis and Jesse J. Salmon, inspectors at Liberty warehouse in the town of Lynchburg, and sundry other citizens of said town in their behalf, that the quantity of tobacco received at said warehouse during the year ending on the thirtieth day of September last (eighteen hundred and thirty-seven), has fallen short of the quantity which would, by the inspection law now in force, entitle them to their full salaries upon an application to the county court of Campbell county; and that in consequence of the diminished trade in the article, and other causes, the quantity of tobacco delivered from said warehouse, at the rate of thirty cents per hogshead (allowed by law), has also failed to furnish them their full salary, whilst the other warehouses in said town had but little more than just reached the maximum limit, which entitled their inspectors severally to their full salaries; and therefore pray to be allowed the thirty cents per hogshead on the quantity of tobacco actually received at said warehouse, together with their office expenses, deducting the sum received for tobacco delivered: Therefore,

1. *Be it enacted,* That the auditor of public accounts be, and he is hereby authorized and required to issue a warrant on the treasury in favour of the said inspectors at Liberty warehouse in the town of Lynchburg, or to their order, for the sum of two hundred and sixty-seven dollars, payable out of any money therein, not otherwise appropriated, being the balance that appears to be due, allowing them thirty cents per hogshead on seventeen hundred and thirty-one hogsheads of tobacco received at said warehouse, and twenty-two dollars for office expenses, and deducting therefrom, at thirty cents per hogshead, the amount received by them on nine hundred and fourteen hogsheads delivered from said warehouse within the same space of time.

2. This act shall commence and be in force from and after the *commencement.* passing thereof.

*Sum allowed in-
spectors at Liberty
warehouse.*

CHAP. 322.—An ACT concerning James Medley.

(Passed April 7, 1838.)

Sum allowed
James Medley for
guarding prisoners
in Halifax jail.

1. Be it enacted by the general assembly, That the auditor of public accounts be, and he is hereby authorized and required to issue a warrant on the treasury in favour of James Medley, late sheriff of Halifax, for the sum of eighty-five dollars and fifty cents, for his services and expenses in guarding prisoners in the said county, after the burning of the jail in eighteen hundred and thirty-five, the same having been refused to be certified by the judge of the circuit superior court, to be paid to him the said James Medley, or to his representative, out of any money in the treasury not otherwise appropriated.

Commencement. **2. This act shall be in force from its passage.**

CHAP. 323.—An ACT concerning William A. M'Mullen.

(Passed April 6, 1838.)

Wm. A. M'Mullen
discharged from
payment of a judg.
ment on it forfeited
recognition.

1. Be it enacted by the general assembly, That William A. M'Mullen of the county of Mason, shall be, and he is hereby discharged from the payment of fifty dollars, the amount of the penalty of a recognizance entered into by him in the year eighteen hundred and thirty-five, as security for the appearance of a certain William Trigg before the county court of the said county, to be held in June of that year, to answer for a breach of the peace with which he stood charged; for which penalty a judgment was obtained by the commonwealth against him the said M'Mullen, at the November term of the said court in the year eighteen hundred and thirty-six; and it is hereby directed that no further proceedings be had against him upon the said judgment: *Provided*, That the said William A. M'Mullen shall make affidavit before some justice of the peace of this commonwealth, that he has not received from the said Trigg, or any other person, any sum of money, or other thing, to secure him against loss by his entering into the said recognizance; and that he will not at any time hereafter demand of, or receive from the said Trigg, or any other person, any sum of money, or other thing, as indemnity to him for his said undertaking; which said affidavit shall be certified by such justice of the peace and filed in the office of the clerk of the said county, and be safely kept by him.

Commencement. **2. This act shall be in force from its passage.**

CHAP. 324.—An ACT concerning the representatives of Louis A. Pauly.

(Passed April 6, 1838.)

Interest allowed
representatives of
Louis A. Pauly on
certain claims.

1. Be it enacted by the general assembly, That the legal representatives of Louis A. Pauly shall be, and they are hereby allowed interest at the rate of five per centum per annum, from the thirtieth day of May, in the year seventeen hundred and eighty-two, until the twenty-eighth day of October, in the year seventeen hundred and ninety, on two certain sums of money which were audited and paid to him under the authority of an act of the general assembly, entitled, "an act directing the claims of Louis A. Pauly to be audited by the auditor of public accounts," passed January the seventeenth, eighteen hundred and twenty-five; and the auditor of public accounts is hereby authorized to issue his warrant upon the treasury accordingly.

Commencement. **2. This act shall be in force from the passing thereof.**

CHAP. 325.—An ACT concerning Lewis Rawlings, deputy sheriff of the county of Spotsylvania.

(Passed April 7, 1838.)

1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized to credit the sheriff of Spotsylvania county for the years eighteen hundred and thirty-six and eighteen hundred and thirty-seven, with the sum of fifteen dollars and seventy-one cents, being the amount of his lists of delinquents for land tax, for said years, as appears by his affidavit, and the certificate of the clerk of the court of said county, and not allowed by the auditor, in consequence of said lists not having been returned to and certified by said court within the time prescribed by law, deducting therefrom any commission which the law allowed, upon paying the same. And should there appear no balance against the sheriff of said county, then the auditor of public accounts shall be, and he is hereby authorized and required to issue a warrant on the treasury in favour of Lewis Rawlings, deputy for Sanford Chancellor, sheriff of Spotsylvania county during said years, his order, or legal representatives, for said sum (deducting as aforesaid), payable out of any money therein not otherwise appropriated.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 326.—An ACT concerning Zachariah Robinson.

(Passed April 6, 1838.)

1. *Be it enacted by the general assembly,* That the second auditor be, and he is hereby authorized and required to issue a warrant on the treasury in favour of Zachariah Robinson, of the county of Bedford, for the sum of twenty dollars, the amount of one of the two fines imposed on him by the county court of said county, in March, eighteen hundred and thirty-five, and subsequently paid, on a presentation for unlawful gaming, to be paid to the said Robinson, or to his representative, out of any money in the literary fund not otherwise appropriated.

2. This act shall be in force from the passing thereof.

Commencement.

CHAP. 327.—An ACT concerning Wilford G. Settle.

(Passed March 5, 1838.)

1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized and required to issue a warrant on the treasury in favour of Wilford G. Settle, for the sum of one hundred and fifty dollars, for services rendered by him as a commissioner of the revenue for the county of Clarke, in the year eighteen hundred and thirty-six, to be paid to him or his representative out of any money therein not otherwise appropriated.

2. This act shall be in force from its passage.

Commencement.

CHAP. 328.—An ACT concerning Daniel Stickley.

(Passed February 5, 1838.)

1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized and required to pay to Daniel Stickley the sum of seventy-five dollars, that being the amount of an order made by the county court of Warren in his favour, for services rendered by him as commissioner of the revenue for said county in the year eighteen hundred and thirty-six, to be

Sum allowed Daniel Stickley as commissioner of revenue of Warren county.

paid to him the said Stickney, or to his representative, out of any money in the treasury not otherwise appropriated.

Commencement. 2. This act shall be in force from its passage.

CHAP. 329.—An ACT concerning John Taylor, Thomas K. Clarke and others.
 (Passed March 27, 1838.)

**Sum allowed Tay-
lor and Clarke,
contractors of free
road.** 1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby required and authorized to issue the following warrants on the treasury: one in favour of John Taylor and Thomas K. Clarke, contractors for the construction of the free road from the western termination of the Staunton and James river turnpike, to the eastern termination of the turnpike across the Warm spring mountain, for the sum of four thousand five hundred and fifty-three dollars, a balance now due them for the construction of a part of the said road; the other in favour of Briscoe G. Baldwin and the other commissioners of the said road, for the sum of two hundred and eighty dollars, to be paid by them to their superintending agent and secretary, in such proportions as may be due them respectively for their services; the said sums to be paid to the said Taylor and Clarke, or their representatives, and to the said Briscoe G. Baldwin and other commissioners of the said road, or their representative, out of any money in the treasury not otherwise appropriated.

**Sum allowed Bald-
win and others,
commissioners of
free road.** 2. This act shall be in force from the passing thereof.

Commencement. 2. This act shall be in force from the passing thereof.

CHAP. 330.—An ACT concerning Hazaell Williams.
 (Passed April 7, 1838.)

**Sum allowed Ha-
zael Williams.** 1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby authorized and required to issue a warrant on the treasury in favour of Hazaell Williams, for the sum of five hundred dollars, in satisfaction of losses sustained by said Williams in consequence of his contract with the board of public works for building the bridge across Jackson's river, opposite the town of Covington, having been set aside by said board, under the operation of the act passed March the nineteenth, eighteen hundred and thirty-six, changing the site for said bridge: *Provided however,* That the auditor shall not issue his warrant for the said sum until the board of public works shall certify to the auditor that the said Williams is equitably entitled to said sum, or for any less sum; and if a less sum be allowed by the said board, the auditor shall issue to said Williams a warrant therefor.

Commencement. 2. This act shall be in force from its passage.

CHAP. 331.—An ACT allowing Patty, a woman of colour, to remain in the commonwealth.

(Passed January 25, 1838.)

**Patty permitted to
remain in state.** 1. *Be it enacted by the general assembly,* That Patty, a woman of colour, emancipated by Catharine Coward of the county of Accomack, shall be, and she is hereby permitted to remain as a free person within this commonwealth, and to reside in the said county of Accomack: *Provided however,* That if the said Patty shall hereafter be convicted by the verdict of a jury, or the judgment of a court, of any offence against the laws of this commonwealth, the privilege hereby granted shall thenceforth cease.

Commencement. 2. This act shall be in force from the passing thereof.

RESOLUTIONS.

No. 1.—Resolutions relative to the repayment to Virginia by the government of the United States, of commutation pay, and for a further appropriation of government land to meet the unsatisfied claims of the officers and soldiers of the Virginia state line and navy, and of the continental army, during the revolutionary war.

(Adopted February 10, 1838.)

1. *Resolved by the general assembly of Virginia,* That our senators in congress be instructed, and our representatives requested, to use their efforts for the passage of a law providing for the repayment into the treasury of Virginia by the government of the United States, of the amount of judgments rendered against the state of Virginia on account of commutation of five years full pay in lieu of half pay for life, which said judgments have been satisfied by the state of Virginia, and which, in the opinion of this legislature, the government of the United States is bound to refund to the state of Virginia; and also, that our said senators be instructed, and our representatives requested, to procure the passage of a law, that in future, all claims for commutation as aforesaid, be settled at the treasury department as the claims for half pay are now settled under the act of congress of July fourth, eighteen hundred and thirty-two.

2. *And be it further resolved by the general assembly of Virginia,* That our senators in congress be instructed, and our representatives requested, to use their efforts for procuring a further appropriation of government land to meet the unsatisfied claims of the officers and soldiers of the Virginia state line and navy and of the continental army during the revolutionary war.

3. *Resolved,* That the governor of the commonwealth be requested to transmit to each of our representatives in congress a copy of this resolution and a copy of the report of the auditor of public accounts on the subject of the judgments aforesaid.

No. 2.—Resolution concerning the annual reports of joint stock companies, requiring the preparation of a map of works of internal improvement within the state, and for other purposes.

(Adopted April 7, 1838.)

1. *Resolved by the general assembly,* That the board of public works be directed to use their best endeavours to induce all joint stock companies in which the state is interested, to make out their annual reports, so as to date from the first of October of each year, and to cause such reports to be made on or before the first Monday of December of such year, and to cause to be prepared in some cheap and convenient form, under the direction of the principal engineer, a lithographic map of all rail-roads, canals, M'Adamized and turnpike roads constructed or surveyed in this state, distinguishing each kind of improvement, and as far as may be, the condition thereof, and shewing their connection with the principal im-

Number of copies subject to order of legislature.

Copies of annual report of board of public works and of map to be published.

provements of neighbouring states, and that five hundred copies thereof be deposited in the office of said board, subject to the order of the next general assembly.

2. *Resolved also,* That five hundred copies of the annual report, &c. of the board of public works, and of the said map, be published in a cheap octavo form, and deposited in the office of the board of public works for the use of the general assembly, and that such publication, so far as it goes, supersede the usual annual reports.

No. 3.—Resolution for procuring a map of the United States, to be hung up in the hall of the house of delegates.

(Adopted February 10, 1838.)

Map of United States for house of delegates to be published.

Resolved, (with the concurrence of the senate,) That the clerk of the house of delegates be authorized to procure as early as practicable, Tanner's latest map of the United States, to be suspended in the hall of said house.

No. 4.—Resolution for a survey of a route for a canal to connect the James river canal with the Rivanna river, and for an examination of the improvements upon the said river.

(Adopted March 8, 1838.)

Survey for canal to connect James river canal and Rivanna river.

1. *Resolved by the general assembly,* That the board of public works instruct the principal engineer to make a survey with a view to the location of a canal to connect the James river canal with the Rivanna river, and to report to the said board the practicability, probable cost and advantages of such an improvement.

2. That the principal engineer be also required to examine the existing improvements upon the Rivanna river, and to report to the said board the condition of the same, together with his opinion as to the repairs, changes and improvements that will be necessary to perfect the navigation of said river, accompanied by the necessary maps and plans, and an estimate of the cost thereof.

No. 5.—Resolution for a survey of the Rockfish river and the country between the highest improvable point on said river and M'Cormick's furnace in the county of Augusta.

(Adopted April 3, 1838.)

Survey of Rockfish river.

Survey of country between river and M'Cormick's furnace for a turnpike.

1. *Resolved by the general assembly,* That the board of public works be instructed to cause a survey or examination of the Rockfish river to be made by the principal engineer for the purpose of ascertaining how far and by what mode of improvement the said river may be rendered navigable; and also an examination of the country between the highest improvable point on said river and M'Cormick's furnace in the county of Augusta or that neighbourhood, in order to ascertain the best route for a turnpike connexion between said river and the main stage road of the valley; and that the principal engineer be directed to report the result of said examinations, together with his views of the expediency, and estimates of the cost of the same.

No. 6.—Resolution for a survey of a route of a M'Adamized road between Petersburg and the town of Clarksville.

(Adopted March 21, 1838.)

Survey of route for road between Petersburg and Clarksville.

Resolved by the general assembly, That the board of public works be instructed to cause surveys to be made for the most suit-

able route for a M'Adamized turnpike between Petersburg and the town of Clarksville in Mecklenburg; the probable estimate of costs, profits and advantages of such road, and to report thereon to the next general assembly.

No. 7.—Resolution for a survey of a route for the Roanoke, Danville and Junction rail-road from Weldon to its connection with the Virginia and Tennessee rail-road.

(Adopted April 6, 1838.)

Resolved by the general assembly, That the board of public works be instructed to cause a survey, with a view to location, to be made by the principal or some competent engineer, of the route of the Roanoke, Danville and Junction rail-road, from Weldon in North Carolina, by Gaston and Danville, to the most eligible and convenient point for its connection with the contemplated Virginia and Tennessee rail-road through the south-western valley, and make report to the general assembly at its ensuing session: *Provided,* That the cost of the survey hereby authorized shall not exceed the sum of four thousand dollars.

No. 8.—Resolution for surveys of routes for roads from Danville to Fincastle, and from Danville to the neighbourhood of Evansham in the county of Wythe.

(Adopted April 7, 1838.)

Resolved by the general assembly, That the board of public works be instructed to cause a survey to be made by the principal or some competent engineer, of the most eligible and convenient route for the contemplated turnpike road from Danville, by Rocky Mount in Franklin, by the Big Lick, to Fincastle in Botetourt; and also to ascertain and survey the most eligible and convenient route for the construction of a M'Adamized turnpike road from Danville, by the iron works in Patrick, to the most convenient point for its connection with the great south-western valley, at or in the neighbourhood of Evansham in the county of Wythe, and make report thereof to the general assembly at its ensuing session.

No. 9.—Resolutions for a survey of a route for a rail-road from Orange courthouse to Newark in Louisa, or to some point of intersection between Louisa courthouse and Gordonsville, with the Louisa rail-road; and for a survey of a route for a M'Adamized road from Winchester to Martinsburg.

[Adopted March 27, 1838.]

1. *Resolved by the general assembly,* That the board of public works be instructed to have surveyed by a competent engineer, a route for a rail-road from Orange courthouse to Newark in the county of Louisa, or to some convenient point of intersection between Louisa courthouse and Gordonsville, with the Louisa rail-road; and that such engineer report to the said board an estimate of the probable cost of such rail-road.

2. *Resolved by the general assembly,* That the board of public works be, and they are hereby authorized and instructed, as early as practicable, to employ a competent engineer to make an examination and survey of a route for a M'Adamized road from Winchester to Martinsburg in the county of Berkeley; to state the probable costs of the construction of the same; its connection with the improvements already made and in contemplation to be made, leading from Maryland and Pennsylvania into Virginia; and also the advantages which, in his opinion, will result to the public from its construction.

No. 10.—Resolution referring to the board of public works the petition of Hugh Crolley and Patrick M'Keon.

(Adopted April 5, 1838.)

Petition of Crolley
and M'Keon refer-
red to board of
public works.

Resolved by the general assembly, That the petition of Hugh Crolley and Patrick M'Keon be referred to the board of public works, with instructions to examine the same, and allow the petitioners any sum it may consider equitable.

No. 11.—Resolution authorizing the auditor of public accounts to issue duplicates of certain warrants.

[Adopted March 6, 1838.]

Auditor to issue
duplicates of cer-
tain warrants.

Resolved by the general assembly, That the auditor of public accounts be, and he is hereby authorized to issue duplicates of the following warrants, to wit: No. 2,137, to Anthony M. Dupuy, for \$30; No. 2,138, to same, for \$3 50; No. 2,139, to same, for \$20, and No. 2,153, to William Martin, for \$116; and that the treasurer be, and he is hereby authorized to draw duplicate checks upon each of said warrants, it appearing that the same were issued on the first and second instant, and checks drawn thereupon, but have been lost before presentation, and that payment of the same has been stopped at bank: *Provided*, That John S. Stubblefield, who is entitled to the said warrants, shall enter into bond in the auditor's office, payable to the governor, with sufficient surety, and having a condition to indemnify the commonwealth against any claim upon the said lost warrants.

No. 12.—Resolution authorizing the auditor of public accounts to issue a duplicate of a certain warrant.

(Adopted March 8, 1838.)

Auditor to issue
duplicate warrant
to George Grave-
ley.

Resolved by the general assembly, That the auditor of public accounts be, and he is hereby authorized to issue a duplicate warrant, No. 2,140, to George Graveley, for six dollars, and that the treasurer be, and he is hereby authorized to draw a duplicate check therefor, it appearing that the same was issued on the first instant, and a check drawn thereupon on the second instant, but has been lost before presentation, and that payment of the same has been stopped at bank: *Provided*, That John S. Stubblefield, who is entitled to the said warrant, shall enter into bond, in the auditor's office, payable to the governor, with sufficient surety, and having a condition to indemnify the commonwealth against any claim upon the said lost warrant.

No. 13.—Resolution requesting the governor to notify John M. Patton, esquire, of his election as councillor of state.

(Adopted April 3, 1838.)

Councillor to be
notified of his
election.

Resolved by the general assembly, That the governor be requested to notify John M. Patton, esquire, of his election as councillor of state, to supply the vacancy occasioned by the expiration of the term of service of William H. M'Farland, esquire, to take effect from and after the thirty-first of March last, and also to inform him that this general assembly expects in case of his acceptance of the appointment, that he will do so with the least delay compatible with his personal convenience.

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